



**COUNTY OF SAN LUIS OBISPO  
DEPARTMENT OF PLANNING AND BUILDING  
STAFF REPORT**

**Tentative Notice of Action**

*Promoting the wise use of land  
Helping build great communities*

<b>MEETING DATE</b> January 6, 2006 <b>EFFECTIVE DATE</b> January 21, 2005	<b>CONTACT/PHONE</b> Elizabeth Kavanaugh 788-2010	<b>APPLICANT</b> Fred Thacker	<b>FILE NO.</b> DRC2004-00236
<b>SUBJECT</b> Request by Fred Thacker for a Minor Use Permit to allow the construction of a 2,688 square foot primary residence and garage and convert the existing approximately 1,200 square foot house to the second primary residence on parcel zoned Agriculture that must meet the secondary dwelling standards. The Minor Use Permit is necessary to waive the distance standard and the road improvement standard of the secondary dwelling ordinance. Waiving the distance requirement will allow the second residence to be located 500 feet away from the first residence. Modifying the road access requirement will allow the construction of second primary on a road that is not chip sealed or better. The project will result in the disturbance of approximately 6,000 square feet of a 15.5-acre parcel. The proposed project is within the agricultural land use category and is located at 8575 Magdalena Drive, just east of the in the community of San Miguel. The site is in the Salinas River planning area.			
<b>RECOMMENDED ACTION</b> 1. Adopt the Negative Declaration in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq. 2. Approve Minor Use Permit DRC2004-00236 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.			
<b>ENVIRONMENTAL DETERMINATION</b> The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on November 24, 2005 for this project.			
<b>LAND USE CATEGORY</b> Agriculture	<b>COMBINING DESIGNATION</b> None	<b>ASSESSOR PARCEL NUMBER</b> 027-251-013	<b>SUPERVISOR DISTRICT(S)</b> 1
<b>PLANNING AREA STANDARDS:</b> None <i>Does the project meet applicable Planning Area Standards:</i> Not applicable			
<b>LAND USE ORDINANCE STANDARDS:</b> 22.30.470, Secondary Dwellings, 22.30.480 Residential Uses in Agricultural Category <i>Does the project conform to the Land Use Ordinance Standards:</i> No see discussion			
<b>FINAL ACTION</b> This tentative decision will become final action on the project, effective on the 15 <sup>th</sup> day following the administrative hearing, or on January 21, 2006, if no hearing was requested unless this decision is changed as a result of information obtained at the hearing or is appealed.			
<b>ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING &amp; BUILDING AT:</b> COUNTY GOVERNMENT CENTER ♦ SAN LUIS OBISPO ♦ CALIFORNIA 93408 ♦ (805) 781-5600 ♦ FAX: (805) 781-1242			

EXISTING USES: Residence, barn, and vineyard	
SURROUNDING LAND USE CATEGORIES AND USES: <i>North: Agricultural/Vineyard and Residential      East: Agricultural/Vineyard and Residential</i> <i>South: Agricultural/Vineyard and Residential      West: Residential Suburban /Vacant</i>	
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: The San Miguel Advisory Group, Public Works, Ag Commissioner, San Miguel Community Service District and San Miguel Fire Department.	
TOPOGRAPHY: Moderate slopes (10-30%)	VEGETATION: Vineyards
PROPOSED SERVICES: Water supply: On-site well Sewage Disposal: Individual septic system Fire Protection: San Miguel Fire Department	ACCEPTANCE DATE: June 3, 2005

## DISCUSSION

PLANNING AREA STANDARDS: None applicable

### LAND USE ORDINANCE STANDARDS:

22.30.480 Residential Uses in Agricultural Category- This section allow Agriculture zoned parcels between one acre and twenty acres to have one primary residence and one additional unit (that meets the standards of the secondary dwelling ordinance). The applicant currently has a residence on site that meets the size requirements of a secondary dwelling, because it is less than 1,200 square feet. The new unit associated with this approval is an approximately 2,688 square foot residence and garage that will be the site's primary residence.

22.30.470: Secondary Dwelling – Secondary dwellings are required to meet the following standards or provide a good reason to waive or modify these standards through a Minor Use Permit.

- The property owner must agree to occupy either the primary residence or the secondary dwelling,
- The secondary dwelling must be located on a site that is 2.5 acres or larger that has on-site well and septic,
- The secondary dwelling can be a maximum of 1,200 square feet in size.
- Off street parking must be provided,
- The secondary dwelling shall match the primary residences,
- Access to the site of the secondary dwelling must on a road that is surfaced with chip seal or better, and
- The secondary dwelling must be located a maximum of 250 feet from the primary residence.

The project complies with the all the standards of this section except the final two. The applicant has applied for a Minor Use Permit to waive and or modify these two requirements: 1) Access must be on a road that is surfaced with chip seal or better. 2) The secondary dwelling must be located a maximum of 250 feet from the primary residence.

Staff supports the request to allow the secondary dwelling to be located 500 feet away from the primary residence because the whole of the site is planted in vineyards except for the location selected for the second unit. This location has soils of the poorest quality for vineyards and other crops. In addition, the location selected is adjacent to the road and in a relatively flat spot that will limit the amount of productive agriculture land required to build the second unit.

The applicant is also requesting a modification to the access requirement that requires a secondary dwelling be located on a site that receives access from a road that is chip sealed or better. Magdalena Drive is not chip sealed or better. It is compact dirt road that is 20 feet wide and is approximately 2,800 feet long from the project site to the River Road (the nearest public street).

Across Magdalena Drive is a proposed 38-lot tract, tract number 2723. This tract proposes to pave Magdalena Drive as part of the tract improvements. Staff is recommending approval of this tract and surmised the Planning Commission will hear the tract in the coming months. Staff and applicant are aware that a staff recommendation of approval does not guarantee approval or that the Planning Commission's approval guarantees the tract will be completed. However, it seemed wasteful to request Mr. Thacker to chip seal a road that may be paved over shortly. For this reason, this project is conditioned to chip seal Magdalena Drive if Magdalena Drive is not paved within five years.

COMMUNITY ADVISORY GROUP COMMENTS: San Miguel Advisory Group—support this project.

AGENCY REVIEW:

Public Works: Recommend Approval

Ag Commissioner: Recommends placing the proposed residence within 250 feet of the primary residence, creating an agricultural buffer of 175 feet along the southern portion of the property, and requiring dust control during construction.

San Miguel Fire Department: Fire safety letter dated May 12, 2005.

LEGAL LOT STATUS:

The one lot was legally created by the San Lawrence Terrance recorded map.

Staff report prepared by Elizabeth Kavanaugh and reviewed by Matt Janssen.

## EXHIBIT A - FINDINGS

### *Environmental Determination*

- A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on November 24, 2005 for this project

### *Minor Use Permit*

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 22 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the residences is similar to, and will not conflict with, the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Magdalena Drive, a private road constructed to a level able to handle any additional traffic associated with the project
- G. Modification of the minimum access for secondary dwellings that requires access from a private easement that is surfaced with chip seal or better and is maintained through organized maintenance is justified because across Magdalena Drive is a proposed 38-lot tract, Tract number 2723. This tract proposes to pave Magdalena Drive as part of the tract improvements. For this reason this project is conditioned to chip seal Magdalena Drive if Magdalena Drive is not paved within five years.
- H. Modification of the distance a secondary dwelling can be located from a primary dwelling from 250 feet to allow a secondary dwelling to be located 500 feet from the primary dwelling is justified because there are specific conditions of the site that make the standard ineffective because the whole of the site is planted in vineyards except for the location selected for the second unit. The selected location has soils of the poorest quality for vineyards and other crops. In addition, the location selected is adjacent to the road and in a relatively flat spot that will limit the amount of agriculture land required to build the second unit.

## **EXHIBIT B - CONDITIONS OF APPROVAL**

### **Approved Development**

1. This approval authorizes:
  - a. the construction of a 2,688 square foot primary residence and garage and convert the existing 1,200 square foot house to the secondary residence that must meet the secondary dwelling standards. The Minor Use Permit is requested to waive the distance standard and the road standard of the secondary dwelling ordinance. Waiving the distance requirement will allow the second primary to be located 500 feet away first primary residence. Waving the of road access requirement will allow the construction of second primary on a road that is not chip sealed or better.
  - b. maximum height is 35 feet from average natural grade.

### **Conditions required to be completed at the time of application for construction permits**

#### ***Site Development***

2. **At the time of application for construction permits** plans submitted shall show all development consistent with the approved site plan, floor plan, and architectural elevations.
3. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp or the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

#### ***Fire Safety***

4. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Requirements shall include, but not be limited to those outlined in the Fire Safety Plan, prepared by the San Miguel Fire Department for this proposed project and dated May 12, 2005.

#### ***Services***

5. **At the time of application for construction permits**, the applicant shall submit evidence that there is adequate water to serve the proposal, on the site.
6. **At the time of application for construction permits**, the applicant shall submit evidence that a septic system, adequate to serve the proposal, can be installed on the site.

### **Conditions to be completed prior to issuance of a construction permit**

#### ***Fees***

7. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.

8. **Prior to issuance of a construction permit**, the applicant for the secondary residence shall record a notice against the property notifying any subsequent purchaser that failure to meet this requirement will subject the second residence to abatement by the county pursuant to Chapter 22.74 of this title. No secondary dwelling shall be allowed on the site unless an owner of the site agrees to occupy one unit on the site as his or her primary residence.
9. **Prior to issuance of a construction permit**, the applicant for the secondary residence shall record a notice against the property notifying any subsequent purchaser that failure to meet this requirement will subject the secondary residence to abatement by the county pursuant to Chapter 22.74 of this title. If Magdalena Drive is not surfaced in chip seal or better by January 21, 2011, the owner shall chip seal Magdalena Drive from River Road to drive way of the second unit approved by this Minor Use Permit.
10. **Prior to issuance of a construction permit**, the applicant shall submit a Road Maintenance agreement that is approved by County Counsel.
11. **At the time of application for construction permits**, the applicant shall clearly delineate the agricultural buffer of 175 feet along the southern portion of the property, on the project plans and locate any proposed habitable structure outside of this buffer.
12. **At the time of application for construction permits**, the applicant shall submit a county approved landscape plan for the proposed residences that buffers the proposed house from the on site and surrounding vineyards. This plan shall include layers of vegetation that includes trees, bushes, and ground cover.
13. **Prior to issuance of building permit**, the applicant shall submit building plans that call out dust control measures shall be used along the project site's portion of Magdalena Drive that is adjacent to neighboring vineyards during construction.
14. **Prior to issuance of grading and/or construction permits**, the applicant shall submit evidence to the County of San Luis Obispo, Department of Planning and Building, Environmental and Resource Management Division (County) (see contact information below) that states that one or a combination of the following four San Joaquin kit fox mitigation measures has been implemented:
  - a. Provide for the protection in perpetuity, through acquisition of fee or a conservation easement of .55 acres of suitable habitat in the kit fox corridor area (e.g. within the San Luis Obispo County kit fox habitat area, northwest of Highway 58), either on-site or off-site, and provide for a non-wasting endowment to provide for management and monitoring of the property in perpetuity. Lands to be conserved shall be subject to the review and approval of the California Department of Fish and Game (Department) and the County.

This mitigation alternative (a.), requires that all aspects if this program must be in place before County permit issuance or initiation of any ground disturbing activities.

- b. Deposit funds into an approved in-lieu fee program, which would provide for the provide for the protection in perpetuity of suitable habitat in the kit fox corridor area within San Luis Obispo County, and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.  
Mitigation alternative (b) above, can be completed by providing funds to The Nature Conservancy (TNC) pursuant to the Voluntary Fee-Based Compensatory

Mitigation Program (Program). The Program was established in agreement between the Department and TNC to preserve San Joaquin kit fox habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with the California Environmental Quality Act (CEQA). The fee, payable to "The Nature Conservancy," would total \$1,375.00. This fee must be paid after the Department provides written notification identifying your mitigation options but prior to County permit issuance and initiation of any ground disturbing activities.

- c. Purchase .55 credits in a Department-approved conservation bank, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

At this time, there is no approved conservation bank that is operational in San Luis Obispo County. A conservation bank is expected to be operational in the near future. Purchase of credits must be completed prior to County permit issuance and initiation of any ground disturbing activities.

- d. If none of the above measures (a, b, or c) are available, the applicant may enter into a Mitigation Agreement with the Department, including depositing of funds into an escrow account (or other means of securing funds acceptable to the Department) which would ensure the protection in perpetuity of .55 acres of suitable habitat within the kit fox corridor area and provide for a non-wasting endowment for management and monitoring in perpetuity. The Department can provide a draft agreement to review; a signed Mitigation Agreement shall be submitted to the County prior to County permit issuance and initiation of any ground disturbing activities. protection in perpetuity of suitable habitat in the kit fox corridor area within San Luis Obispo County, and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

Mitigation alternative (b) above, can be completed by providing funds to The Nature Conservancy (TNC) pursuant to the Voluntary Fee-Based Compensatory Mitigation Program (Program). The Program was established in agreement between the Department and TNC to preserve San Joaquin kit fox habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with the California Environmental Quality Act (CEQA). The fee, payable to "The Nature Conservancy," would total \$1,375.00. This fee must be paid after the Department provides written notification identifying your mitigation options but prior to County permit issuance and initiation of any ground disturbing activities.

15. **Prior to issuance of grading and/or construction permits**, and within 30 days prior to initiation of site disturbance and/or construction, the biologist shall conduct a pre-activity (i.e. pre-construction) survey for known or potential kit fox dens and submit a letter to the County reporting the date the survey was conducted, the survey protocol, survey results, and what measures were necessary (and completed), as applicable, to address any kit fox activity within the project limits.

- a. The qualified biologist shall conduct weekly site visits during site-disturbance activities (i.e. grading, disking, excavation, stock piling of dirt or gravel, etc.) that proceed longer than 14 days, for the purpose of monitoring compliance with required Mitigation Measures BR-3 through BR11 of the signed developers statement. Site- disturbance activities lasting up to 14 days do not require weekly monitoring by the biologist unless observations of kit fox or their

dens are made on-site or the qualified biologist recommends monitoring for some other reason (see BR-2-c3). When weekly monitoring is required, the biologist shall submit weekly monitoring reports to the County.

b. **Prior to or during project activities**, if any observations are made of San Joaquin Kit fox, or any known or potential San Joaquin kit fox dens are discovered within the project limits, the qualified biologist shall re-assess the probability of incidental take (e.g. harm or death) to kit fox. At the time a den is discovered, the qualified biologist shall contact the U.S. Fish and Wildlife Service and the Department (see contact information below) for guidance on possible additional kit fox protection measures to implement and whether or not a Federal and/or State incidental take permit is needed. If a potential den is encountered during construction, work shall stop until such time the U.S. Fish and Wildlife Service/Department determines it is appropriate to resume work.

c. If incidental take of kit fox during project activities is possible, before project activities commence, the applicant must consult with the U.S. Fish and Wildlife Service and the Department. The results of this consultation may require the applicant to obtain a Federal and/or State permit for incidental take during project activities. The applicant should be aware that the presence of kit foxes or known or potential kit fox dens at the project site could result in further delays of project activities.

d. In addition, the qualified biologist shall implement the following measures:

1.

Within 30 days prior to initiation of site disturbance and/or construction, fenced exclusion zones shall be established around all known and potential kit fox dens.

1. Exclusion zone fencing shall consist of either large flagged stakes connected by rope or cord, or survey laths or wooden stakes prominently flagged with survey ribbon. Each exclusion zone shall be roughly circular in configuration with a radius of the following distance measured outward from the den or burrow entrances:

- a) Potential kit fox den: 50 feet
- b) Known or active kit fox den: 100 feet
- c) Kit fox pupping den: 150 feet

2. All foot and vehicle traffic, as well as all construction activities, including storage of supplies and equipment, shall remain outside of exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, and then shall be removed.

3. If kit foxes or known or potential kit fox dens are found on site, daily monitoring during ground disturbing activities shall be required by a qualified biologist.

16. **Prior to issuance of grading and/or construction permits**, the applicant shall clearly delineate as a note on the project plans, that: "Speed signs of 25 mph (or lower) shall be posted for all construction traffic to minimize the probability of road mortality of the San Joaquin kit fox". Speed limit signs shall be installed on the project site within 30 days prior to initiation of site disturbance and/or construction.

During the site disturbance and/or construction phase, grading and construction activities after dusk shall be prohibited unless coordinated through the County, during which additional kit fox mitigation measures may be required.

17. **Prior to issuance of grading and/or construction permit**, and within 30 days prior to initiation of site disturbance and/or construction, all personnel associated with the project shall attend a worker education training program, conducted by a qualified biologist, to avoid or reduce impacts on sensitive biological resources (i.e. San Joaquin kit fox). At a minimum, as the program relates to the kit fox, the training shall include the kit fox's life history, all mitigation measures specified by the county, as well as any related biological report(s) prepared for the project. The applicant shall notify the County shortly prior to this meeting. A kit fox fact sheet shall also be developed prior to the training program, and distributed at the training program to all contractors, employers and other personnel involved with the construction of the project.
18. During the site-disturbance and/or construction phase, to prevent entrapment of the San Joaquin kit fox, all excavation, steep-walled holes or trenches in excess of two feet in depth shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Trenches shall also be inspected for entrapped kit fox each morning prior to onset of field activities and immediately prior to covering with plywood at the end of each working day. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped kit fox. Any kit fox so discovered shall be allowed to escape before field activities resume, or removed from the trench or hole by a qualified biologist and allowed to escape unimpeded.
19. During the site-disturbance and/or construction phase, any pipes, culverts, or similar structures with a diameter of four inches or greater, stored overnight at the project site shall be thoroughly inspected for trapped San Joaquin kit foxes before the subject pipe is subsequently buried, capped, or otherwise used or moved in any way. If during the construction phase a kit fox is discovered inside a pipe, that section of pipe will not be moved, or if necessary, be moved only once to remove it from the path of activity, until the kit fox has escaped.
20. During the site-disturbance and/or construction phase, all food-related trash items such as wrappers, cans, bottles, and food scraps generated shall be disposed of in closed containers only and regularly removed from the site. Food items may attract San Joaquin kit foxes onto the project site, consequently exposing such animals to increased risk of injury or mortality. No deliberate feeding of wildlife shall be allowed.
21. Prior to, during and after the site-disturbance and/or construction phase, use of pesticides or herbicides shall be in compliance with all local, State and Federal regulations. This is necessary to minimize the probability of primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which San Joaquin kit foxes depend.
22. During the site-disturbance and/or construction phase, any contractor or employee that inadvertently kills or injures a San Joaquin kit fox or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the applicant and County. In the event that any observations are made of injured or dead kit fox, the applicant shall immediately notify the U.S. Fish and Wildlife Service and Department by telephone (see contact information below). In addition, formal notification shall be provided in writing within three working days of the finding of any such animal(s). Notification shall include the date, time, location and circumstances of the incident. Any threatened or endangered species found dead or injured shall be turned over immediately to Department for care, analysis, or disposition.

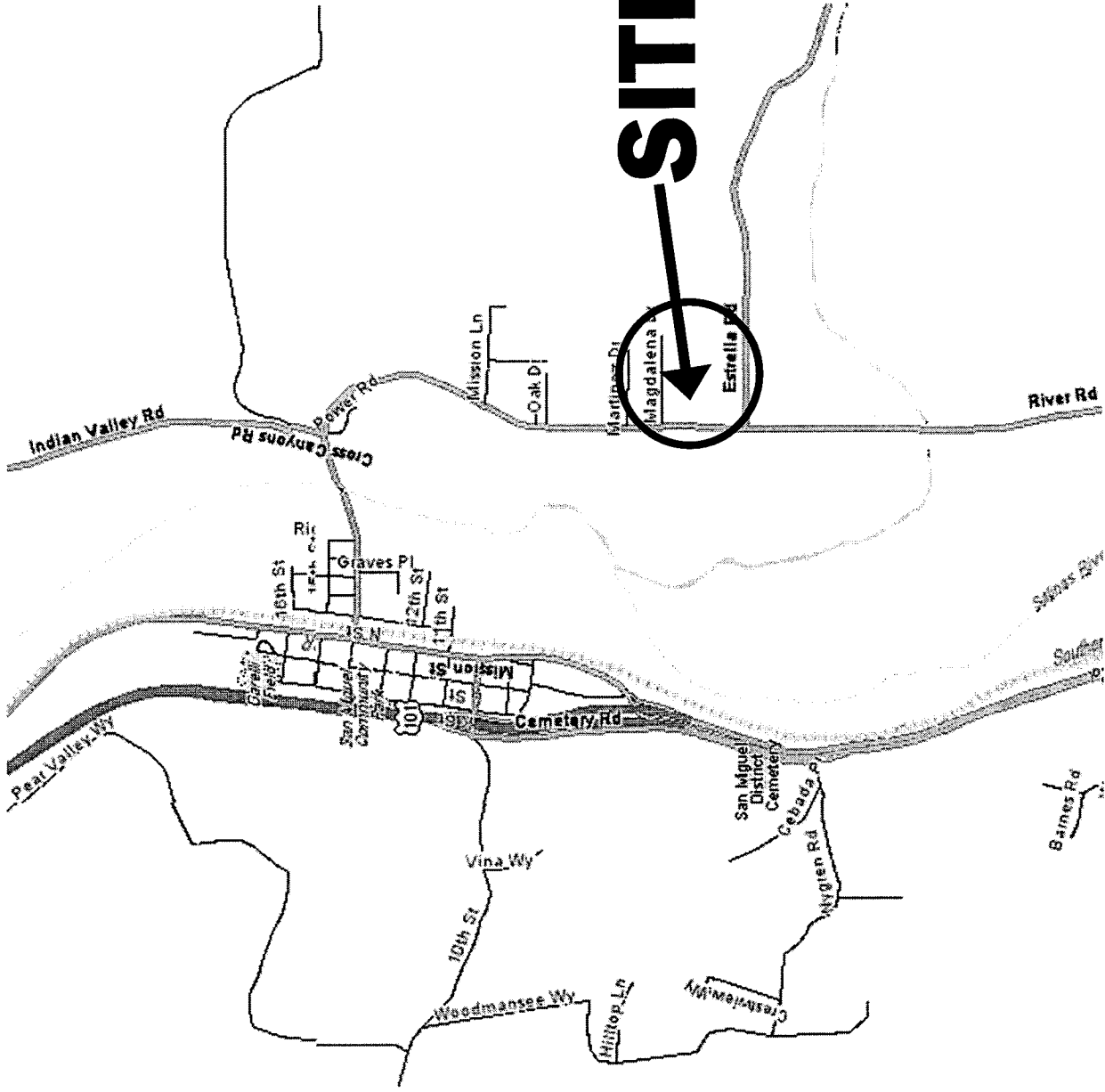
**Conditions to be completed prior to occupancy or final building inspection /establishment of the use.**

23. **Prior to occupancy or final inspection**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.
24. **Prior to occupancy or final inspection**, the applicant shall Landscape in accordance with the approved landscaping plan shall be installed or before final building inspection. All landscaping shall be maintained in a viable condition in perpetuity
25. **Prior to occupancy or final inspection**, which ever occurs first, the applicant shall obtain final inspection and approval from San Miguel Fire Department of all required fire/life safety measures.
26. **Prior to final inspection**, or occupancy, whichever comes first, should any long internal or perimeter fencing be proposed or installed, the applicant shall do the following to provide for kit fox passage:
  - a. If a wire strand/pole design is used, the lowest strand shall be no closer to the ground than 12".
  - b. If a more solid wire mesh fence is used, 8" x 12" openings near the ground shall be provided every 100 yards.

Upon fence installation, the applicant shall notify the County to verify proper installation. Any fencing constructed after issuance of a final permit shall follow the above guidelines.

**On-going conditions of approval (valid for the life of the project)**

27. **Prior to transfer of this parcel, the applicant shall disclose to prospective buyers**, the consequences of existing and potential intensive agricultural operations on adjacent parcels including, but not limited to: dust, noise, odors and agricultural chemicals and the county's Right to Farm ordinance currently in effect at the time said deed(s) are recorded.
28. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 22.64.070 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 22.64.080 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
29. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 22.74.160 of the Land Use Ordinance.



EXHIBIT

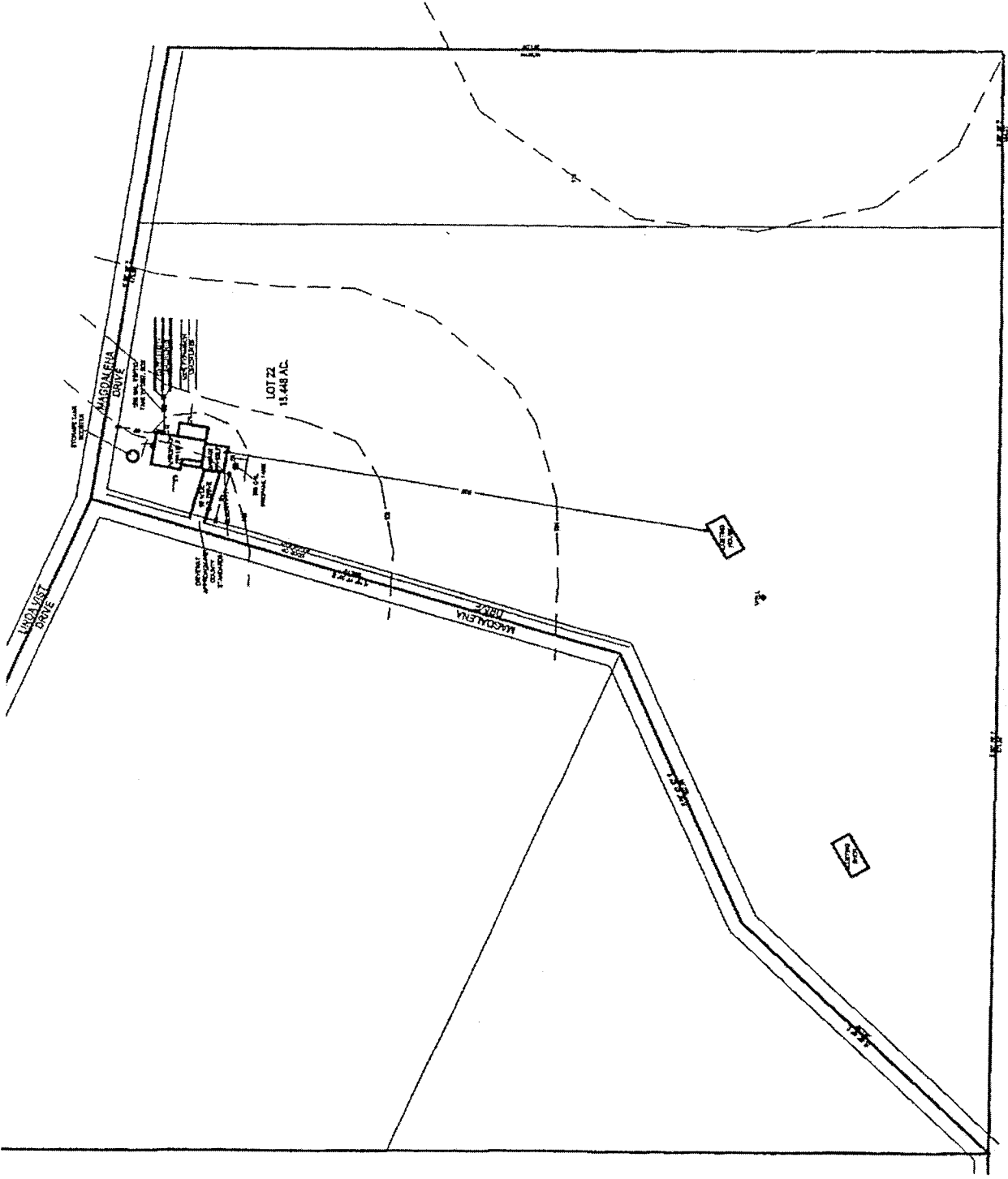
San Miguel Vicinity



PROJECT

Minor Use Permit  
Thacker DRC2004-00236





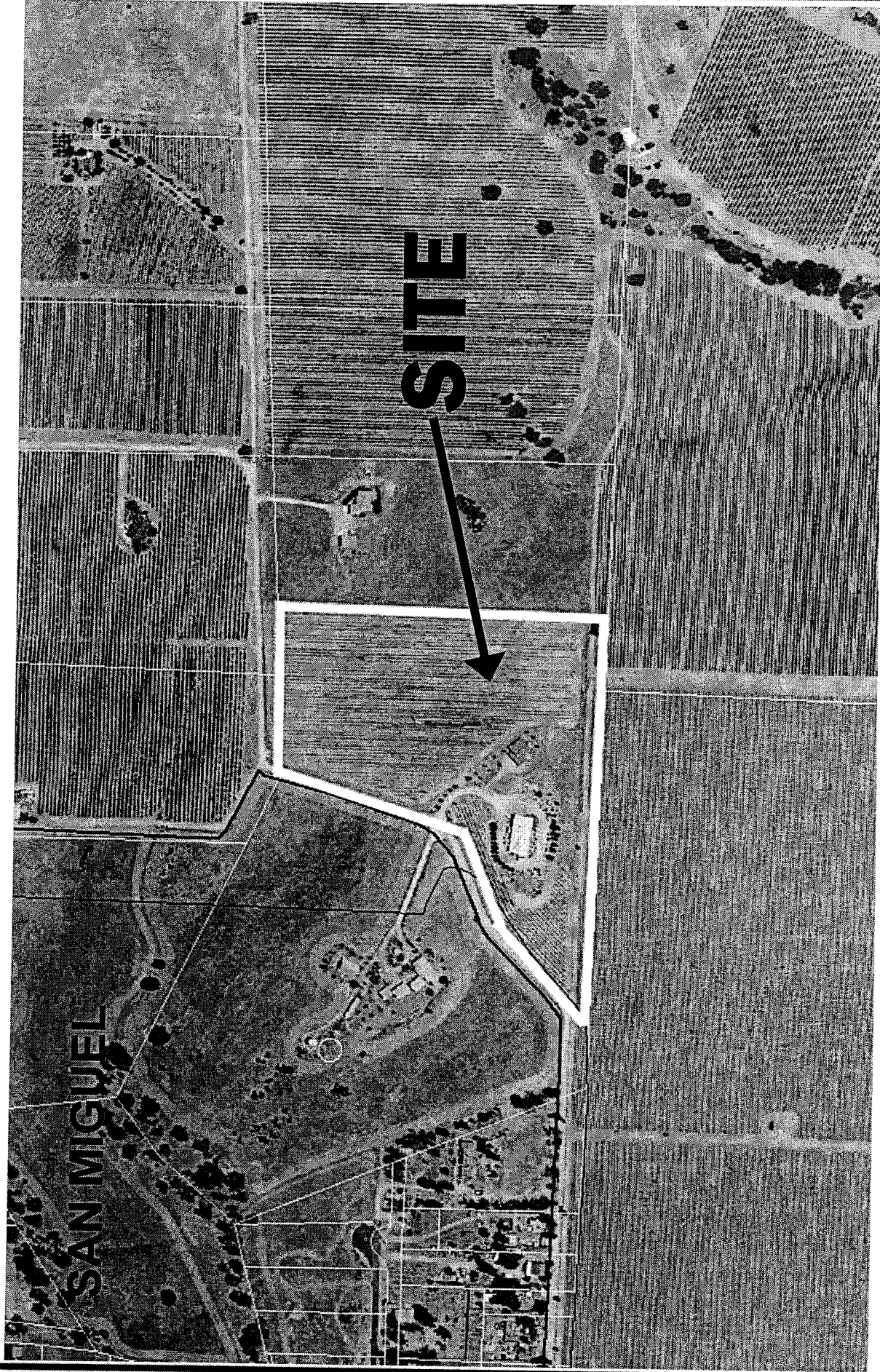
PROJECT

Minor Use Permit  
Thacker DRC2004-00236



EXHIBIT

Site Plan



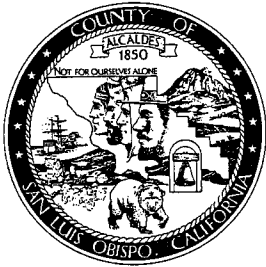
PROJECT

Minor Use Permit  
Thacker DRC2004-00236



EXHIBIT

Aerial Photo



COUNTY OF SAN LUIS OBISPO

**Department of Agriculture/Measurement Standards**

2156 SIERRA WAY, SUITE A • SAN LUIS OBISPO, CALIFORNIA 93401-4556

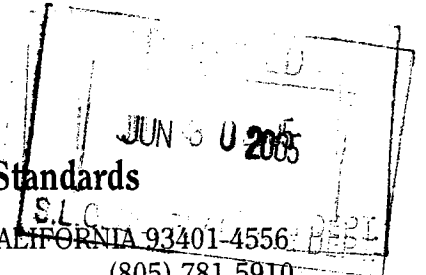
ROBERT F. LILLEY

AGRICULTURAL COMMISSIONER/SEALER

(805) 781-5910

FAX (805) 781-1035

AgCommSLO@co.slo.ca.us



**DATE:** June 29, 2005

**TO:** Elizabeth Kavanaugh, North County Planning Team

**FROM:** Michael Isensee, Agricultural Resource Specialist *md*

**SUBJECT:** Thacker Minor Use Permit, DRC2004-00236

**Summary of Findings**

The Agriculture Department's review finds that the proposed Thacker Minor Use Permit would have less than significant impacts to agricultural resources if:

- dust control occurs on Magdalena Avenue during the construction of the second residence, and
- land use ordinance standards requiring placing the second residence within 250 feet of the existing dwelling are met.

The comments and recommendations in this report are based on policies in the San Luis Obispo County Agriculture and Open Space Element, the Land Use Ordinance, the California Environmental Quality Act (CEQA), and on current departmental policy to conserve agricultural resources and to provide for public health, safety and welfare while mitigating negative impacts of development to agriculture.

**Project Background**

The proposed second residence will be added to an approximately 15.5-acre site located on Magdalena Drive east of North River Road in the San Lawrence Terrace portion of San Miguel. The project site is currently developed with a residence and barn. The area is zoned Agriculture and is utilized for a variety of agricultural enterprises, especially wine grape production. The site is immediately southeast of the urban reserve line for the community of San Miguel and is currently only accessible from River Road via Magdalena Drive. Eleven current residences utilize Magdalena Drive for access. Six farmworker quarters that have either been proposed or are currently under construction will also utilize the road. A project proposing 36 new residential lots would also utilize Magdalena as a secondary access road.

**Agricultural Use and Site Soils**

The project site is currently used for an approximately 11.3 acre vineyard. The site consists of a variety of soils, listed in Table 1 and shown in Figure 1, attached. The highest quality

soils are found in the far west corner on a low portion of the property. The sloping portion of the site consists of the least capable soils on site. The majority of the upper portion of the site is class IV soils.

Two large vineyards are located immediately south of the project property, approximately 175 feet from the existing residence on site. The existing residence is located upwind and upslope from the adjacent vineyard, minimizing exposure to dust, noise, and other impacts associated with residential uses in close proximity to vineyard operations. A third vineyard is located immediately to the north of the project site. The proposed site for the residence is approximately 600 feet from the existing residence and 115 feet from existing vineyards on the adjoining property north of Magdalena Drive. The proposed residence would be located downwind and slightly upslope from this neighboring vineyard.

<b>Table 1: Thacker Site Soils (acreage approximate)</b>				
Soil Name	Slope	Irrigated	Nonirrigated	Acres
Arbuckle-Positas complex	9-15%	IV	IV	5.7
Arbuckle-Positas complex	15-30%	VI	VI	0.1
Arbuckle-Positas complex	50-75%	VII	VII	2.9
Arbuckle-San Ysidro complex	2-9%	III	IV	0.5
Nacimiento-Los Osos complex	9-30%	IV	IV	6.5

## **Project Evaluation**

### *Impacts to on-site Agricultural Resources*

The proposed project locates a second residence on approximately a one-half acre area in the northwest corner of the site, in close proximity to an adjacent off-site vineyard. A small portion of the proposed development site is lower quality (class VI) Arbuckle Positas complex soils, while most of it is class IV Nacimiento-Los Osos complex soils. In general, removal of a half-acre of existing vineyard on capable soils does not represent a significant impact to agricultural operations or resources. In this case, the proposed development represents approximately five percent of the site's vineyard and the two residences will impact less than one acre of the project site.

The Salinas River Areawide Standards require "new development on land that has existing agricultural production or that is classified...as Class III or Class IV soils shall be designed to minimize the loss of soils for potential agricultural use by sensitive placement of buildings and new parcels (LUO 22.104.020.F). This site offers minimal opportunity to meet this standard, as most of the site is in agricultural production or is Class III or IV soils.

### *Impacts to off-site Agricultural Resources*

The greatest potential impact due to this project is locating a residence in close proximity to adjoining vineyards. The 250-foot maximum separation distance between primary and

secondary residences on sites smaller than 20 acres (LUO 22.30.470.F.2.b) would ensure that a second residence not be placed in close proximity to the neighboring vineyard to the north.

Placing the primary and secondary residence in close proximity and utilizing the existing driveway could probably minimize overall on-site impacts. A second residence should also be located an adequate distance from the adjacent vineyards to the south, protecting off-site agricultural resources and meeting the intent of the county buffer policy. An adequate buffer distance would be 175 feet from the adjacent vineyard to the south, mirroring the existing distance separation between this vineyard and the existing residence.

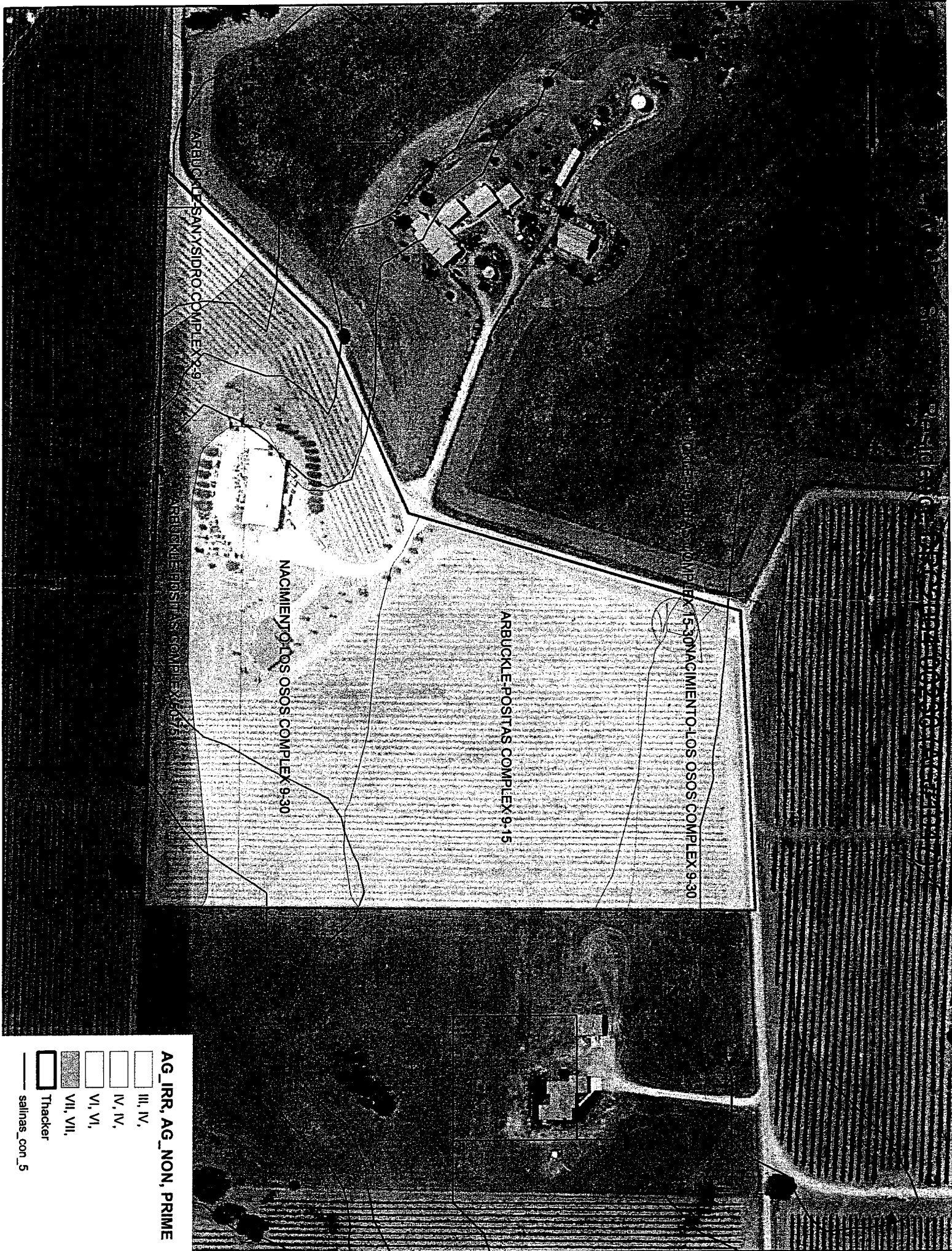
Under the current Land Use Ordinance, the development of a secondary dwelling is allowed only on a site that is surfaced with chip seal or better (LUO 22.30.470.C.2). The applicant has requested a waiver for the access road improvements. The Agriculture Department contacted the manager of the vineyard adjacent to Magdalena Drive. He stated that the adjacent road has the potential to adversely impact their agricultural operation through the creation of dust and the subsequent proliferation of dust mites. If increased dust leads to increased problems with mites, the grower would need to utilize pesticides to control the mites. This is a cost and management issue that can be avoided through proper dust control during the period of construction for the secondary residence. Waiving this requirement may be appropriate if the applicant agrees to an appropriate method of dust control along the road during construction. Post construction, the addition of the single additional residence should not create an additional traffic load that would require ongoing dust control, although it would incrementally contribute to increased dust creation along Magdalena Drive.

### **Recommended Mitigation**

The Agriculture Department recommends:

- The second proposed residence meet the LUO standard of no more than 250 feet of separation between primary and secondary residences (LUO 22.30.470.F.2.b).
- Placing an agricultural buffer of 175 feet along the southern portion of the property, mirroring the existing distance between residence and vineyard along the south.
- Requiring dust control during construction along that portion of Magdalena Drive adjacent to neighboring vineyards.

Please call 781-5753 if I can be of further assistance.





EX

# SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

MAY - 6 2005

VICTOR HOLANDA, AICP  
DIRECTOR

THIS IS A NEW PROJECT REFERRAL

DATE:

5/5/05

FROM

PW



North Co. Team

(Please direct response to the above)

Thacker

DRC 2004-00236

Project Name and Number

Development Review Section (Phone:

788-2009)

\*OR ASK THE SWITCH-  
BOARD FOR THE PLANNING

PROJECT DESCRIPTION:

MUP -> waive rd. access requirements  
for a secondary dwelling. Located off Magdalena  
Dr. in San Miguel. APN: 027-251-013  
15 1/2 acres

Return this letter with your comments attached no later than:

5/20/05

PART I

IS THE ATTACHED INFORMATION ADEQUATE FOR YOU TO DO YOUR REVIEW?

☒ YES  
☐ NO

PART II

ARE THERE SIGNIFICANT CONCERNS, PROBLEMS OR IMPACTS IN YOUR AREA OF REVIEW?

☒ NO  
☐ YES

(Please go on to Part III)

(Please describe impacts, along with recommended mitigation measures to reduce the impacts to less-than-significant levels, and attach to this letter.)

PART III

INDICATE YOUR RECOMMENDATION FOR FINAL ACTION. Please attach any conditions of approval you recommend to be incorporated into the project's approval, or state reasons for recommending denial. IF YOU HAVE "NO COMMENT," PLEASE INDICATE

Recommend Approval - Trust 2723 will pay bond.

App. Form has N/A for answer to current use, structures, improvements & vegetation  
or prop. I see a barn, house and vineyards. Sunny house will be in vineyard?

24 May 2005  
Date

Gordon  
Name

5252  
Phone

San Miguel  
Community  
Services District



Board of Directors

**President**  
Richard Harrison

**Vice President**  
Gib Buckman

**Members**  
Connie Jarvis  
Dale Hamblin  
Bud Wimer

Mission Statement

Committed to serving the  
community with  
effectiveness, efficiency, and  
care to support the economic  
and social quality of life in  
San Miguel

Proudly serving  
San Miguel  
with:

Fire Protection

Street Lighting

Water

Wastewater

Solid Waste

P.O. Box 180  
1150 Mission Street  
San Miguel, CA 93451

Tel. 805-467-3388  
Fax 805-467-9212

[smcsd@tcsn.net](mailto:smcsd@tcsn.net)

[www.sanmiguelcsd.org](http://www.sanmiguelcsd.org)

May 12, 2005

Fredrick Thacker  
8575 Magdalina Dr.  
San Miguel CA 93451

Dear Mr. Thacker

I respond to your letter regarding San Luis Obispo County Planning and Building Department requiring you to pave Magdalina Dr. as a condition to build a second resident on your property. The San Miguel Fire Department will be responsible for providing fire protection. In order to meet the requirements of the Uniform Fire Code the following conditions will need to be met to obtain fire department protection and approval of your project:

Roads & Fire Access Road

San Miguel Fire Department will not require you to pave Magdalena Dr. Fire Access Road standards by California Uniform Fire Code 902.2.2.1 and 902.2.2.2. will be required:

**902.2.2.1 Dimensions.** Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm) and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).

**902.2.2.2 Surfaces.** Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface so as to provide all-weather driving capabilities.

Addressing

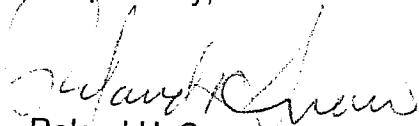
All projects, prior to final inspection approval, shall comply with Title 20, Address and Road Name Ordinance. Appropriate addresses, building numbers, road names, signs and room numbers, shall be installed prior to final inspection. SMCSO ordinance #03-2001 requires numbers to be a minimum of four (4) inches in height for residential and five (5) inches minimum height for commercial buildings. All numbers shall contrast with their background, be visible from the center of the road and be illuminated if possible. UFC

Residential Sprinklers

The residential structure shall be equipped with residential sprinklers per NFPA Pamphlet 13D.

As noted in your letter Mr. Chad Wittstrom has submitted a tract map for the development of his property. San Miguel Fire Department has required him to pave Magdalena Dr as a condition to develop the property. When you submit your plans to San Miguel Fire Department the above conditions will be required. If you have any questions or comments regarding this information, please call my office.

Respectfully,

A handwritten signature in cursive script, appearing to read "Roland H. Snow".

Roland H. Snow  
Fire Chief





# COUNTY OF SAN LUIS OBISPO

FOR OFFICIAL USE ONLY (EK)

## MITIGATED NEGATIVE DECLARATION & NOTICE OF DETERMINATION

ENVIRONMENTAL DETERMINATION NO. ED05-073

DATE: November 24, 2005

PROJECT/ENTITLEMENT: Thacker Minor Use Permit (DRC2004-000236)

APPLICANT NAME: Fred Thacker

ADDRESS: 8575 Magdalena Drive, San Miguel, CA 93451

CONTACT PERSON: Same as applicant

Telephone: 805-467-2483

**PROPOSED USES/INTENT:** Thacker Minor Use Permit. Request by Fred Thacker to allow for the establishment of a second primary residence (approximately 2,688 square feet) Due to the smaller parcel size in the Agriculture land use category (15.5 acres), the existing 1,200 square foot residence must meet secondary dwelling standards. The project is requesting to waive two of these standards: distance between the two residences (requesting 500 feet) and the road standard (requesting no chip seal). The project will result in the disturbance of approximately 6,000 square feet.

**LOCATION:** The proposed project is within the Agricultural land use category and is located at 8575 Magdalena, approximately 2,500 feet north/east of the corner of River Road and Magdalena Drive, in the community of San Miguel. The site is in the Salinas River planning area.

**LEAD AGENCY:** County of San Luis Obispo Department of Planning & Building  
County Government Center, Rm. 310  
San Luis Obispo, CA 93408-2040

**OTHER POTENTIAL PERMITTING AGENCIES:** California Department of Fish and Game

**ADDITIONAL INFORMATION:** Additional information pertaining to this environmental determination may be obtained by contacting the above Lead Agency address or (805) 781-5600.

**COUNTY "REQUEST FOR REVIEW" PERIOD ENDS AT** ..... 5 p.m. on December 7, 2005

**30-DAY PUBLIC REVIEW PERIOD** begins at the time of public notification

### Notice of Determination

State Clearinghouse No. \_\_\_\_\_

This is to advise that the San Luis Obispo County Planning Department Hearing Officer \_\_\_\_\_ as ☐ Lead Agency ☐ Responsible Agency approved/denied the above described project on \_\_\_\_\_, and has made the following determinations regarding the above described project:

The project will not have a significant effect on the environment. A Negative Declaration was prepared for this project pursuant to the provisions of CEQA. Mitigation measures were made a condition of the approval of the project. A Statement of Overriding Considerations was not adopted for this project. Findings were made pursuant to the provisions of CEQA.

This is to certify that the Negative Declaration with comments and responses and record of project approval is available to the General Public at:

Department of Planning and Building, County of San Luis Obispo,  
County Government Center, Room 310, San Luis Obispo, CA 93408-2040

County of San Luis Obispo

Signature

Project Manager Name

Date

Public Agency



**San Luis Obispo County**  
**Department of Planning and Building**  
***environmental division***

**ENVIRONMENTAL DOCUMENT FILING FEE FORM**

NOTICE: During environmental review, this project required consultation, review or development of mitigation measures by the California Department of Fish and Game. Therefore, the applicants will be assessed user fees pursuant to section 711.4 of the California Fish and Game Code.. The California Environmental Quality Act (Section 21089) provides that this project is not operative, vested or final until the filing fees are paid.

Lead Agency: County of San Luis Obispo

Date: 11/17/05

County: San Luis Obispo

Project No. DRC2004-00236

Project Title: Thacker Minor Use Permit

**Project Applicant**

Name: Fred Thacker

Address: 8575 Magdalina

City, State, Zip Code: San Miguel, CA 93451

Telephone #: 805-467-2483

Please remit the following amount to the **County Clerk-Recorder:**

( ) Environmental Impact Report	\$ 850.00
(X) Negative Declaration	\$ 1250.00
(X) County Clerk's Fee	\$ <u>25.00</u>

**Total amount due: 1275.00**

**AMOUNT ENCLOSED: \_\_\_\_\_**

Checks should be made out to the "**County of San Luis Obispo**". Payment must be received by the County Clerk, 1055 Monterey Street, Room D-120, San Luis Obispo, CA 93408-2040, within two days of project approval.

**NOTE:** Filing of the Notice of Determination for the attached environmental document requires a filing fee in the amount specified above. If the fee is not paid, the Notice of Determination cannot be filed.



**COUNTY OF SAN LUIS OBISPO  
INITIAL STUDY SUMMARY - ENVIRONMENTAL CHECKLIST**

**Project Title & No. Thacker Minor Use Permit DRC 2004-00236    ED05-073**

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:** The proposed project could have a "Potentially Significant Impact" for at least one of the environmental factors checked below. Please refer to the attached pages for discussion on mitigation measures or project revisions to either reduce these impacts to less than significant levels or require further study.

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Aesthetics<br><input checked="" type="checkbox"/> Agricultural Resources<br><input checked="" type="checkbox"/> Air Quality<br><input checked="" type="checkbox"/> Biological Resources<br><input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology and Soils<br><input checked="" type="checkbox"/> Hazards/Hazardous Materials<br><input checked="" type="checkbox"/> Noise<br><input checked="" type="checkbox"/> Population/Housing<br><input type="checkbox"/> Public Services/Utilities | <input type="checkbox"/> Recreation<br><input type="checkbox"/> Transportation/Circulation<br><input type="checkbox"/> Wastewater<br><input type="checkbox"/> Water<br><input type="checkbox"/> Land Use |
|---|--|--|

**DETERMINATION:** (To be completed by the Lead Agency)

On the basis of this initial evaluation, the Environmental Coordinator finds that:

- ☐ The proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☒ Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ The proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ Although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

ELIZABETH KAVANAUGH  
Prepared by (Print)

Elizabeth Kavanaugh  
Signature

11/7/05  
Date

Steven McMasters  
Reviewed by (Print)

Steve McMasters  
Signature

Ellen Carroll,  
Environmental Coordinator  
(for)

11/7/05  
Date

### **Project Environmental Analysis**

The County's environmental review process incorporates all of the requirements for completing the Initial Study as required by the California Environmental Quality Act (CEQA) and the CEQA Guidelines. The Initial Study includes staff's on-site inspection of the project site and surroundings and a detailed review of the information in the file for the project. In addition, available background information is reviewed for each project. Relevant information regarding soil types and characteristics, geologic information, significant vegetation and/or wildlife resources, water availability, wastewater disposal services, existing land uses and surrounding land use categories and other information relevant to the environmental review process are evaluated for each project. Exhibit A includes the references used, as well as the agencies or groups that were contacted as a part of the Initial Study. The Environmental Division uses the checklist to summarize the results of the research accomplished during the initial environmental review of the project.

Persons, agencies or organizations interested in obtaining more information regarding the environmental review process for a project should contact the County of San Luis Obispo Environmental Division, Rm. 310, County Government Center, San Luis Obispo, CA, 93408-2040 or call (805) 781-5600.

### **A. PROJECT**

**DESCRIPTION:** Request by Fred Thacker for a Minor Use Permit to allow the construction of a 2,688 square foot primary residence and garage and convert the existing 1,200 square foot house to the second primary residence that must meet the secondary dwelling standards. The Minor Use Permit is requested to waive the distance standard and the road standard of the secondary dwelling ordinance. Waiving the distance requirement will allow the second primary to be located 500 feet away first primary residence. Waving the of road access requirement will allow the construction of second primary on a road that is not chip sealed or better. The project will result in the disturbance of approximately 6,000 square feet of a fifteen and a half acre parcel. The proposed project is within the Agricultural land use category and is located at 8575 Magalina, approximately 2,500 feet north/east of the corner of River Road and Magdalena Drive, in the community of San Miguel. The site is in the Salinas River planning area.

**ASSESSOR PARCEL NUMBER(S):** 027-251-013

**SUPERVISORIAL DISTRICT #** 1

### **B. EXISTING SETTING**

**PLANNING AREA:** Salinas River, Rural

**LAND USE CATEGORY:** Agriculture

**COMBINING DESIGNATION(S):** None

**EXISTING USES:** Residence , agricultural uses

**TOPOGRAPHY:** Nearly level

**VEGETATION:** Vineyards

**PARCEL SIZE:** 15.5acres

## SURROUNDING LAND USE CATEGORIES AND USES:

<i>North:</i> Agriculture; Vineyards and scattered residential	<i>East:</i> Agriculture; Vineyards and scattered residential
<i>South:</i> Agriculture; residential and vineyards	<i>West:</i> Residential Suburban; residential

### C. ENVIRONMENTAL ANALYSIS

During the Initial Study process, several issues were identified as having potentially significant environmental effects (see following Initial Study). Those potentially significant items associated with the proposed uses can be minimized to less than significant levels.

### COUNTY OF SAN LUIS OBISPO INITIAL STUDY CHECKLIST

1.	<b>AESTHETICS - Will the project:</b>	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a)	Create an aesthetically incompatible site open to public view?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b)	Introduce a use within a scenic view open to public view?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c)	Change the visual character of an area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d)	Create glare or night lighting, which may affect surrounding areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e)	Impact unique geological or physical features?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f)	Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Setting.** The project site is located in an area characterized by vineyards and scattered residences. The proposed residence will not be visible from any major public roadway or silhouetting against any ridgelines as viewed from public roadways. The project is considered compatible with the surrounding uses.

**Impact.** No significant visual impacts are expected to occur.

**Mitigation/Conclusion.** No mitigation measures are necessary.

2.	<b>AGRICULTURAL RESOURCES - Will the project:</b>	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a)	Convert prime agricultural land to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## 2. AGRICULTURAL RESOURCES

- Will the project:

	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
b) <i>Impair agricultural use of other property or result in conversion to other uses?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Conflict with existing zoning or Williamson Act program?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Setting.** The soil types include: Arbuckle-Positas complex, (9 - 15 % slope), Arbuckle-Positas complex, (15 - 30 % slope), Arbuckle-Positas complex, (50 - 75 % slope), Arbuckle-San Ysidro complex, (2 - 9% slope), Nacimiento-Los Osos complex, (9 - 30 % slope). As described in the Natural Resource Conservation Service Soil Survey, the "non-irrigated" soil class is "IV to VII", and the "irrigated" soil class is "NA to IV". The site is a mostly covered in vineyard except the existing building site and at the site of the proposed new residence.

**Impacts.** - The Agricultural Commissioner in a letter dated June 29, 2005 identified the possibility of a potential significant impact to agricultural resources as a result of conflict between the existing neighboring agricultural operations and future residential development on the parcel. Placement of residences in close proximity to the vineyards may potentially expose future residents to intensive agricultural practices such as pesticide use, dust, and noise. This could in turn limit the agriculturalists ability to manage the areas currently under production. The Agricultural Commissioner has recommended several measures to minimize the future conflict and reduce the potential impact to agricultural resources.

**Mitigation/Conclusion.** In order to protect surrounding agriculture from future agriculture/residential conflicts and to protect the future residence from the potential harmful effects of the existing vineyard, the applicant has agreed to:

- 1) Provide a buffer area along the southern property boundary of 175 feet. No additional structures used for human habitation shall be constructed in the buffer area.
- 2) To protect surrounding vineyards dust control measures shall be used along the project site's portion of Magdalena Drive that is adjacent to neighboring vineyards during construction.
- 3) An approved resident landscape plan shall be implemented that buffer the proposed house from the on site and surrounding vineyards. This plan shall include layers of vegetation that includes trees, bushes, and ground cover.
- 4) The applicant shall disclose to prospective buyers, the consequences of existing and potential intensive agricultural operations on adjacent parcels including, but not limited to: dust, noise, odors and agricultural chemicals and the county's Right to Farm ordinance currently in effect at the time said deed(s) are recorded.

These mitigations reduce the impact of this project to an insignificant level.

3. AIR QUALITY - <i>Will the project:</i>	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Violate any state or federal ambient air quality standard, or exceed air quality emission thresholds as established by County Air Pollution Control District?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <i>Expose any sensitive receptor to substantial air pollutant concentrations?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Create or subject individuals to objectionable odors?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <i>Be inconsistent with the District's Clean Air Plan?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) <i>Other: <u>Dust</u></i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Setting.** The Air Pollution Control District (APCD) has developed the CEQA Air Quality Handbook to evaluate project specific impacts and help determine if air quality mitigation measures are needed, or if potentially significant impacts could result. To evaluate long-term emissions, cumulative effects, and establish countywide programs to reach acceptable air quality levels, a Clean Air Plan has been adopted (prepared by APCD).

**Impact.** As proposed, the project will result in the disturbance of approximately 2,500 square feet. This will result in the creation of construction dust, as well as short- and long-term vehicle emissions. Based on Table 1-1 of the CEQA Air Quality Handbook, the project will result in less than 10 lbs./day of pollutants, which is below thresholds warranting any mitigation. The project is consistent with the general level of development anticipated and projected in the Clean Air Plan. No significant air quality impacts are expected to occur.

A localized concern is that the proposed residence may be impacted from the dust generated from the surrounding and on-site vineyard activities and that the vineyards may be affected from the dust generated from construction of the new residence.

**Mitigation/Conclusion.** Mitigations for dust control measures during construction and a landscape plan to protect the proposed residence from dust generated from the on-site and surrounding agriculture are proposed as part of the Agriculture section of this document and will reduce the impact of this project to an insignificant level.

4. BIOLOGICAL RESOURCES - <i>Will the project:</i>	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Result in a loss of unique or special status species or their habitats?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<b>4. BIOLOGICAL RESOURCES -</b> <i>Will the project:</i>	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
b) <i>Reduce the extent, diversity or quality of native or other important vegetation?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Impact wetland or riparian habitat?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <i>Introduce barriers to movement of resident or migratory fish or wildlife species, or factors, which could hinder the normal activities of wildlife?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Setting.** Setting. The project site was visited on May 11, 2005. The property is gently rolling habitat east of the Salinas River. The vegetation on the site consists of planted vineyards. The Natural Diversity Database identified this area as important habitat for the San Joaquin Kit Fox, a federally listed endangered species and a state listed threatened species.

**Impact.** The applicants proposed project will remove approximately 6,000 square feet of kit fox habitat by developing the secondary dwelling and driveway.

**Mitigation/Conclusion.** The applicant has waived the opportunity to complete a San Joaquin kit fox habitat evaluation form and has agreed to the standard 4:1 mitigation ratio for the area. The applicant has signed a Developer's Statement agreeing to the mitigation at a 4:1 ratio including retaining a biologist for a preconstruction survey and monitoring activities and implement cautionary construction measures. These mitigation measures are listed in detail in Exhibit B Mitigation Summary Table.

<b>5. CULTURAL RESOURCES -</b> <i>Will the project:</i>	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Disturb pre-historic resources?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <i>Disturb historic resources?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Disturb paleontological resources?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Setting.** The project is located in an area historically occupied by the Salinan indians . No historic

structures are present and no paleontological resources are known to exist in the area.

**Impact.** The project is not located in an area that would be considered culturally sensitive due to lack of physical features typically associated with prehistoric occupation. No evidence of cultural materials was noted on the property. Impacts to historical or paleontological resources are not expected.

**Mitigation/Conclusion.** No significant cultural resource impacts are expected to occur, and no mitigation measures are necessary

<b>6. GEOLOGY AND SOILS -</b> <i>Will the project:</i>	<b>Potentially Significant</b>	<b>Impact can &amp; will be mitigated</b>	<b>Insignificant Impact</b>	<b>Not Applicable</b>
a) <i>Result in exposure to or production of unstable earth conditions, such as landslides, earthquakes, liquefaction, ground failure, land subsidence or other similar hazards?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <i>Be within a California Geological Survey "Alquist-Priolo Earthquake Fault Zone"?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Result in soil erosion, topographic changes, loss of topsoil or unstable soil conditions from project-related improvements, such as vegetation removal, grading, excavation, or fill?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <i>Change rates of soil absorption, or amount or direction of surface runoff?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) <i>Include structures located on expansive soils?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) <i>Change the drainage patterns where substantial on- or off-site sedimentation/ erosion or flooding may occur?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) <i>Involve activities within the 100-year flood zone?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h) <i>Be inconsistent with the goals and policies of the County's Safety Element relating to Geologic and Seismic Hazards?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i) <i>Preclude the future extraction of valuable mineral resources?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j) <i>Other: _____</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Setting.** GEOLOGY - The topography of the project is nearly level. The area proposed for

development is outside of the Geologic Study Area designation. The landslide risk potential is considered low. to moderate. The liquefaction potential during a ground-shaking event is considered moderate. . No active faulting is known to exist on or near the subject property. The project is not within a known area containing serpentine or ultramafic rock or soils.

**DRAINAGE** – The area proposed for development is outside the 100-year Flood Hazard designation. The closest creek (a tributary of the Salinas River) from the proposed development is located along the northern edge of the property. As described in the Natural Resource Conservation Service Soil Survey, the soil is considered not well drained. For areas where drainage is identified as a potential issue, the LUO (Sec. 22.52.080) includes a provision to prepare a drainage plan to minimize potential drainage impacts. When required, this plan would need to address measures such as: constructing on-site retention or detention basins, or installing surface water flow dissipaters. This plan would also need to show that the increased surface runoff would have no more impacts than that caused by historic flows.

**SEDIMENTATION AND EROSION** – The soil types include: Arbuckle-San Ysidro complex, (2 - 9% slope), Nacimiento-Los Osos complex, (9 - 30 % slope) . As described in the NRCS Soil Survey, the soil surface is considered to have unknown to moderate erodibility and unknown to moderate shrink-swell characteristics. **SEDIMENTATION AND EROSION** – The soil types include: Arbuckle-Positas complex, (9 - 15 % slope), Arbuckle-Positas complex, (15 - 30 % slope), Arbuckle-Positas complex, (50 - 75 % slope), Arbuckle-San Ysidro complex, (2 - 9% slope), Nacimiento-Los Osos complex, (9 - 30 % slope). As described in the NRCS Soil Survey, the soil surface is considered to have \_\_\_ erodibility and shrink-swell characteristics.

**Impact.** As proposed, the project will result in the disturbance of approximately 6,000 square feet.

**Mitigation/Conclusion.** There is no evidence that measures above what will already be required by ordinance or codes are needed.

7. <b>HAZARDS &amp; HAZARDOUS MATERIALS - Will the project:</b>	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Result in a risk of explosion or release of hazardous substances (e.g. oil, pesticides, chemicals, radiation) or exposure of people to hazardous substances?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <i>Interfere with an emergency response or evacuation plan?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Expose people to safety risk associated with airport flight pattern?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <i>Increase fire hazard risk or expose people or structures to high fire hazard conditions?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) <i>Create any other health hazard or potential hazard?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**7. HAZARDS & HAZARDOUS MATERIALS - Will the project:**

f) Other: \_\_\_\_\_

Potentially  
Significant

Impact can  
& will be  
mitigated

Insignificant  
Impact

Not  
Applicable

☐
☐
☐
☐

**Setting.** The project is not located in an area of known hazardous material contamination. The project is not within a high severity risk area for fire. The project is not within the Airport Review area. This site is planted with vineyards and is surrounded to the north, south and east by vineyards.

**Impact.** The project does not propose the use of hazardous materials. The project does not present a significant fire safety risk. The project is not expected to conflict with any regional evacuation plan. The project may be impacted by pesticide use of the on-site and surrounding vineyards.

**Mitigation/Conclusion** - A landscape plan to protect the proposed residence from pesticide use from the on-site and surrounding agriculture are proposed as part of the Agriculture section of this document and will reduce the impact of this project to an insignificant level.

**8. NOISE - Will the project:**

a) *Expose people to noise levels that exceed the County Noise Element thresholds?*

b) *Generate increases in the ambient noise levels for adjoining areas?*

c) *Expose people to severe noise or vibration?*

d) Other: \_\_\_\_\_

Potentially  
Significant

Impact can  
& will be  
mitigated

Insignificant  
Impact

Not  
Applicable

☐
☒
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**Setting.** The project is not within close proximity of loud noise sources, and will not conflict with any sensitive noise receptors (e.g., residences). The site is surrounded to the north, south, and east by vineyards.

**Impact.** The project is not expected to generate loud noises. The project is a residence surrounded by vineyards, which creates a potential of increase exposure to objectionable agriculture related noise. However, actual noise levels are unlikely to exceed thresholds in the County's Noise Element

**Mitigation/Conclusion.** A buffer from an agricultural area is required to protect the proposed residence from agriculture related noise from the on-site and surrounding agriculture are proposed as part of the Agriculture section of this document and will further reduce the impact of this project to an insignificant level.

**9. POPULATION/HOUSING -***Will the project:*Potentially  
SignificantImpact can  
& will be  
mitigatedInsignificant  
ImpactNot  
Applicable

a) *Induce substantial growth in an area either directly or indirectly (e.g., through projects in an undeveloped area or extension of major infrastructure)?*

☐☐☒☐

b) *Displace existing housing or people, requiring construction of replacement housing elsewhere?*

☐☐☒☐

c) *Create the need for substantial new housing in the area?*

☐☐☒☐

d) *Use substantial amount of fuel or energy?*

☐☐☒☐

e) *Other: \_\_\_\_\_*

☐☐☐☐

**Setting** The project is the construction of one primary dwelling and changing the use of the existing 1,200 square foot residence into a secondary dwelling.

**Impact.** The project will not result in a need for a significant amount of new housing, and will not displace existing housing.

**Mitigation/Conclusion.** No significant population and housing impacts are anticipated, and no mitigation measures are necessary.

**10. PUBLIC SERVICES/UTILITIES -***Will the project have an effect upon, or result in the need for new or altered public services in any of the following areas:*Potentially  
SignificantImpact can  
& will be  
mitigatedInsignificant  
ImpactNot  
Applicable

a) *Fire protection?*

☐☒☐☐

b) *Police protection (e.g., Sheriff, CHP)?*

☐☒☐☐

c) *Schools?*

☐☒☐☐

d) *Roads?*

☐☐☒☐

e) *Solid Wastes?*

☐☐☒☐

f) *Other public facilities?*

☐☒☐☐

g) *Other: \_\_\_\_\_*

☐☐☐☐

**Setting.** The project area is served by the County Sheriff's Department and CDF/County Fire as the primary emergency responders. The closest CDF fire station (Meridian Station 36) is approximately

12 miles to the southeast. The closest Sheriff substation is in Templeton, which is approximately 14 miles from the proposed project. The project is located in the San Miguel Joint Union Elementary School District.

**Impact.** The project's direct and cumulative impacts are within the general assumptions of allowed use for the subject property that was used to estimate the fees in place.

**Mitigation/Conclusion.** Public facility (county) and school (State Government Code 65995 et seq) fee programs have been adopted to address the project's direct and cumulative impacts, and will reduce the impacts to less than significant levels.

11. RECREATION - <i>Will the project:</i>	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Increase the use or demand for parks or other recreation opportunities?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <i>Affect the access to trails, parks or other recreation opportunities?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Other</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Setting.** The County Trails Plan shows that a potential trail does not go through the proposed project. The project is not proposed in a location that will affect any trail, park or other recreational resource.

**Impact.** The proposed project will not create a significant need for additional park or recreational resources.

**Mitigation/Conclusion.** No significant recreation impacts are anticipated, and no mitigation measures are necessary.

12. TRANSPORTATION/ CIRCULATION - <i>Will the project:</i>	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Increase vehicle trips to local or areawide circulation system?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <i>Reduce existing "Levels of Service" on public roadway(s)?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Create unsafe conditions on public roadways (e.g., limited access, design features, sight distance, slow vehicles)?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <i>Provide for adequate emergency access?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) <i>Result in inadequate parking capacity?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

12. TRANSPORTATION/ CIRCULATION - <i>Will the project:</i>	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
f) <i>Result in inadequate internal traffic circulation?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) <i>Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., pedestrian access, bus turnouts, bicycle racks, etc.)?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h) <i>Result in a change in air traffic patterns that may result in substantial safety risks?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Setting.** Future development will access onto the following public road(s): Magdalena Road a local road. The identified roadway is operating at acceptable levels. Referrals were sent to Public Works. No significant traffic-related concerns were identified.

**Impact.** The proposed project is the construction of a primary dwelling and changing the use of the existing 1,200 square foot residence into a second primary residence that meets the standards of a secondary dwelling. This small amount of additional traffic will not result in a significant change to the existing road service or traffic safety levels.

**Mitigation/Conclusion.** No significant traffic impacts were identified, and no mitigation measures are necessary.

13. WASTEWATER - <i>Will the project:</i>	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Violate waste discharge requirements or Central Coast Basin Plan criteria for wastewater systems?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <i>Change the quality of surface or ground water (e.g., nitrogen-loading, daylighting)?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Adversely affect community wastewater service provider?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Setting.** As described in the NRCS Soil Survey (see Geology section for soil types), the main limitations for on-site wastewater systems relates to: slow percolation, steep slopes, shallow depth to bedrock. These limitations are summarized as follows:

**Shallow Depth to Bedrock** – indicates that there may not be sufficient soil depth to provide adequate soil filtering of effluent before reaching bedrock. Once effluent reaches bedrock, chances increase for the effluent to infiltrate cracks that could lead directly to groundwater sources or near wells without adequate filtering, or allow effluent to daylight where bedrock is exposed to the earth's surface. To comply with the Central Coast Basin Plan, additional information is needed prior to issuance of a building permit, such as borings at leach line locations, to show that there will be adequate separation between leach line and bedrock.

**Steep Slopes** – where portions of the soil unit contain slopes steep enough to result in potential daylighting of wastewater effluent. To comply with the Central Coast Basin Plan, additional information is needed prior to issuance of a building permit, such as slope comparison with leach line depths, to show that there is no potential of effluent “daylighting” to the ground surface.

**Slow Percolation** – is where fluid percolates too slowly through the soil for the natural processes to effectively break down the effluent into harmless components. The Basin Plan identifies the percolation rate should be less than 120 minutes per inch. To achieve compliance with the Central Coast Basin Plan, additional information will be needed prior to issuance of a building permit that shows the leach area can adequately percolate to achieve this threshold.

**Impact.** The project proposes to use an on-site system as its means to dispose wastewater. Based on the proposed plans, adequate area appears available for an on-site system. (The following reports were completed to show that an on-site system would be able to meet Basin Plan criteria: )

**Mitigation/Conclusion.** (On-site) The leach lines shall be located at least 100 feet from any private well and at least 200 from any community/public well. Prior to building permit issuance, the septic system will be evaluated in greater detail to insure compliance with the Central Coast Basin Plan for any constraints listed above, and will not be approved if Basin Plan criteria cannot be met.

<b>14. WATER - Will the project:</b>	<b>Potentially Significant</b>	<b>Impact can &amp; will be mitigated</b>	<b>Insignificant Impact</b>	<b>Not Applicable</b>
a) <b>Violate any water quality standards?</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <b>Discharge into surface waters or otherwise alter surface water quality (e.g., turbidity, temperature, dissolved oxygen, etc.)?</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <b>Change the quality of groundwater (e.g., saltwater intrusion, nitrogen-loading, etc.)?</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <b>Change the quantity or movement of available surface or ground water?</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) <b>Adversely affect community water service provider?</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) <b>Other:</b> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Setting.** The project proposes to use an on-site well as its water source. Based on available information, the proposed water source is not known to have any significant availability or quality

problems

The topography of the project is nearly level. The closest creek (an unnamed stream) from the proposed development is approximately 0.2 miles away. As described in the NRCS Soil Survey, the soil surface is considered to have unknown to moderate erodibility.

**Impact.** As proposed, the project will result in one primary dwelling and changing the use of the existing 1,200 square foot residence into a secondary dwelling.

**Mitigation/Conclusion.** Since no potentially significant water quantity or quality impacts were identified, no specific measures above standard requirements have been determined necessary. Standard drainage and erosion control measures will be required for the proposed project and will provide sufficient measures to adequately protect surface water quality.

<b>15. LAND USE - Will the project:</b>		<b>Inconsistent</b>	<b>Potentially Inconsistent</b>	<b>Consistent</b>	<b>Not Applicable</b>
<b>a)</b>	<b><i>Be potentially inconsistent with land use, policy/regulation (e.g., general plan [county land use element and ordinance], local coastal plan, specific plan, Clean Air Plan, etc.) adopted to avoid or mitigate for environmental effects?</i></b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>b)</b>	<b><i>Be potentially inconsistent with any habitat or community conservation plan?</i></b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>c)</b>	<b><i>Be potentially inconsistent with adopted agency environmental plans or policies with jurisdiction over the project?</i></b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>d)</b>	<b><i>Be potentially incompatible with surrounding land uses?</i></b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>e)</b>	<b><i>Other:</i></b> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Setting/Impact/Mitigation.** Surrounding uses are identified on Page 2 of the Initial Study. The proposed project was reviewed for consistency with policy and/or regulatory documents relating to the environment and appropriate land use (e.g., County Land Use Ordinance, Local Coastal Plan, etc.). Referrals were sent to outside agencies to review for policy consistencies (e.g., CDF for Fire Code, APCD for Clean Air Plan, etc.). The project was found to be consistent with these documents (refer also to Exhibit A on reference documents used) except the Agriculture and Open Space Element that calls out an agriculture buffer from a proposed residence from vineyards of 400 to 800 feet. The Agriculture Department has reviewed this project and determined based on topography, prevailing winds and other site-specific features that only a 175-foot agriculture buffer to the south is necessary and no buffer is necessary to the north or east.

The project is not within or adjacent to a Habitat Conservation Plan area. The project is consistent or compatible with the surrounding uses as summarized on page 2 of this Initial Study.

**16. MANDATORY FINDINGS OF SIGNIFICANCE - Will the project:**

Potentially Significant      Impact can & will be mitigated      Insignificant Impact      Not Applicable

- a) *Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?*
- ☐      ☒      ☐      ☐
- b) *Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)*
- ☐      ☒      ☐      ☐
- c) *Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?*
- ☐      ☒      ☐      ☐

For further information on CEQA or the county's environmental review process, please visit the County's web site at "www.sloplanning.org" under "Environmental Review", or the California Environmental Resources Evaluation System at "http://ceres.ca.gov/topic/env\_law/ ceqa/ guidelines/" for information about the California Environmental Quality Act.

### **Exhibit A - Initial Study References and Agency Contacts**

The County Planning or Environmental Division have contacted various agencies for their comments on the proposed project. With respect to the subject application, the following have been contacted (marked with an ☒) and when a response was made, it is either attached or in the application file:

<b><u>Contacted</u></b>	<b><u>Agency</u></b>	<b><u>Response</u></b>
<input checked="" type="checkbox"/>	County Public Works Department	In File**
<input type="checkbox"/>	County Environmental Health Division	Not Applicable
<input checked="" type="checkbox"/>	County Agricultural Commissioner's Office	In File**
<input type="checkbox"/>	County Airport Manager	Not Applicable
<input type="checkbox"/>	Airport Land Use Commission	Not Applicable
<input type="checkbox"/>	Air Pollution Control District	Not Applicable
<input type="checkbox"/>	County Sheriff's Department	Not Applicable
<input type="checkbox"/>	Regional Water Quality Control Board	Not Applicable
<input type="checkbox"/>	CA Coastal Commission	Not Applicable
<input type="checkbox"/>	CA Department of Fish and Game	Not Applicable
<input type="checkbox"/>	CA Department of Forestry	Not Applicable
<input type="checkbox"/>	CA Department of Transportation	Not Applicable
<input type="checkbox"/>	Community Service District	Not Applicable
<input checked="" type="checkbox"/>	Other <u>San Miguel Fire Department</u>	In File**
<input type="checkbox"/>	Other _____	Not Applicable

**\*\* "No comment" or "No concerns"-type responses are usually not attached**

The following checked ("☒") reference materials have been used in the environmental review for the proposed project and are hereby incorporated by reference into the Initial Study. The following information is available at the County Planning and Building Department.

<input checked="" type="checkbox"/> Project File for the Subject Application	<input type="checkbox"/> Area Plan
<b><u>County documents</u></b>	<input type="checkbox"/> and Update EIR
<input type="checkbox"/> Airport Land Use Plans	<input type="checkbox"/> Circulation Study
<input checked="" type="checkbox"/> Annual Resource Summary Report	<b><u>Other documents</u></b>
<input type="checkbox"/> Building and Construction Ordinance	<input checked="" type="checkbox"/> Archaeological Resources Map
<input type="checkbox"/> Coastal Policies	<input checked="" type="checkbox"/> Area of Critical Concerns Map
<input checked="" type="checkbox"/> Framework for Planning (Coastal & Inland)	<input checked="" type="checkbox"/> Areas of Special Biological
<input checked="" type="checkbox"/> General Plan (Inland & Coastal), including all maps & elements; more pertinent elements considered include:	<input checked="" type="checkbox"/> Importance Map
<input checked="" type="checkbox"/> Agriculture & Open Space Element	<input checked="" type="checkbox"/> California Natural Species Diversity
<input checked="" type="checkbox"/> Energy Element	<input checked="" type="checkbox"/> Database
<input checked="" type="checkbox"/> Environment Plan (Conservation, Historic and Esthetic Elements)	<input checked="" type="checkbox"/> Clean Air Plan
<input checked="" type="checkbox"/> Housing Element	<input checked="" type="checkbox"/> Fire Hazard Severity Map
<input checked="" type="checkbox"/> Noise Element	<input checked="" type="checkbox"/> Flood Hazard Maps
<input type="checkbox"/> Parks & Recreation Element	<input checked="" type="checkbox"/> Natural Resources Conservation
<input checked="" type="checkbox"/> Safety Element	<input checked="" type="checkbox"/> Service Soil Survey for SLO County
<input checked="" type="checkbox"/> Land Use Ordinance	<input checked="" type="checkbox"/> Regional Transportation Plan
<input type="checkbox"/> Real Property Division Ordinance	<input checked="" type="checkbox"/> Uniform Fire Code
<input type="checkbox"/> Trails Plan	<input checked="" type="checkbox"/> Water Quality Control Plan (Central
<input type="checkbox"/> Solid Waste Management Plan	<input checked="" type="checkbox"/> Coast Basin – Region 3)
	<input checked="" type="checkbox"/> GIS mapping layers (e.g., habitat, streams, contours, etc.)
	<input type="checkbox"/> Other _____

## **Exhibit B - Mitigation Summary Table**

**AG1 Prior to transfer of this parcel**, the applicant shall disclose to prospective buyers, the consequences of existing and potential intensive agricultural operations on adjacent parcels including, but not limited to: dust, noise, odors and agricultural chemicals and the county's Right to Farm ordinance currently in effect at the time said deed(s) are recorded.

**AG2** The applicant shall provide an agricultural buffer on the subject property as 175 feet along the southern property line of the subject parcel. No structures used for human habitation shall be constructed in the buffer area. The agricultural buffer shall no longer be in effect if the adjacent agricultural use is discontinued [and the adjacent property is no longer in the Agriculture land use category].

**AG3 At the time of application for construction permits**, the applicant shall clearly delineate the agricultural buffer on the project plans and locate any proposed habitable structure outside of this buffer.

**AG4 At the time of application for construction permits**, the applicant shall submit a county approved landscape plan for the proposed residences that buffers the proposed house from the on site and surrounding vineyards. This plan shall include layers of vegetation that includes trees, bushes, and ground cover.

**AG5 Prior to final of building permit**, the applicant shall implement the county approved landscape plan that buffers the proposed house from the on site and surrounding vineyards. This plan shall include layers of vegetation including trees, bushes, and ground cover around the proposed residence.

**AG6 Prior to issuance of building permit**, the applicant shall submit building plans that call out dust control measures shall be used along the project site's portion of Magdalena Drive that is adjacent to neighboring vineyards during construction.

**Future development on this parcel will be required to mitigate impacts to San Joaquin kit fox habitat.** Based on the results of previous Kit Fox Habitat Evaluations that have been conducted for the **San Miguel** area, the standard mitigation ratio for projects on parcels less than 40 acres in size has been established as of 4:1. This means that for every acre of disturbance resulting from project activities (e.g. pad for buildings, access roads, leach fields etc.), the applicant would be required to mitigate a total of four to one acres of habitat. Applicants have the option of hiring a qualified biologist to conduct a Kit Fox Habitat Evaluation of the project site if the applicant believes that the evaluation would lower the score and reduce the required mitigation ratio. However, the applicant has chosen to accept the standard mitigation ratio of 4:1. The mitigation options identified in BR-1 through BR-11 **apply to the proposed project only**; should the project change, the mitigation obligation may also change, and a reevaluation of the mitigation measures would be required.

**BR-1 Prior to issuance of grading and/or construction permits**, the applicant shall submit evidence to the County of San Luis Obispo, Department of Planning and Building, Environmental and Resource Management Division (County) (see contact information below) that states that one or a combination of the following four San Joaquin kit fox mitigation measures has been implemented:

a. Provide for the protection in perpetuity, through acquisition of fee or a conservation easement of **.55** acres of suitable habitat in the kit fox corridor area (e.g. within the San Luis Obispo County kit fox habitat area, northwest of Highway 58), either on-site or off-site, and provide for a non-

wasting endowment to provide for management and monitoring of the property in perpetuity. Lands to be conserved shall be subject to the review and approval of the California Department of Fish and Game (Department) and the County.

This mitigation alternative (a.), requires that all aspects of this program must be in place before County permit issuance or initiation of any ground disturbing activities.

b. Deposit funds into an approved in-lieu fee program, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area within San Luis Obispo County, and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

**BR-1 Prior to issuance of grading and/or construction permits,** the applicant shall submit evidence to the County of San Luis Obispo, Department of Planning and Building, Environmental and Resource Management Division (County) (see contact information below) that states that one or a combination of the following four San Joaquin kit fox mitigation measures has been implemented:

a. Provide for the protection in perpetuity, through acquisition of fee or a conservation easement of .55 acres of suitable habitat in the kit fox corridor area (e.g. within the San Luis Obispo County kit fox habitat area, northwest of Highway 58), either on-site or off-site, and provide for a non-wasting endowment to provide for management and monitoring of the property in perpetuity. Lands to be conserved shall be subject to the review and approval of the California Department of Fish and Game (Department) and the County.

This mitigation alternative (a.), requires that all aspects of this program must be in place before County permit issuance or initiation of any ground disturbing activities.

b. Deposit funds into an approved in-lieu fee program, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area within San Luis Obispo County, and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

Mitigation alternative (b) above, can be completed by providing funds to The Nature Conservancy (TNC) pursuant to the Voluntary Fee-Based Compensatory Mitigation Program (Program). The Program was established in agreement between the Department and TNC to preserve San Joaquin kit fox habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with the California Environmental Quality Act (CEQA). The fee, payable to "The Nature Conservancy," would total **\$1375.00**. This fee must be paid after the Department provides written notification identifying your mitigation options but prior to County permit issuance and initiation of any ground disturbing activities.

c. Purchase .55 credits in a Department-approved conservation bank, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

At this time, there is no approved conservation bank that is operational in San Luis Obispo County. A conservation bank is expected to be operational in the near future. Purchase of credits must be completed prior to County permit issuance and initiation of any ground disturbing activities.

d. If none of the above measures (a, b, or c) are available, the applicant may enter into a Mitigation Agreement with the Department, including depositing of funds into an escrow account (or other means of securing funds acceptable to the Department) which would ensure the protection in perpetuity of .55 acres of suitable habitat within the kit fox corridor area and provide for a non-wasting

endowment for management and monitoring in perpetuity. The Department can provide a draft agreement to review; a signed Mitigation Agreement shall be submitted to the County prior to County permit issuance and initiation of any ground disturbing activities.

**BR-2 Prior to issuance of grading and/or construction permits**, the applicant shall provide evidence to the County that they have retained a qualified biologist acceptable to the County Division of Environmental and Resource Management. The retained biologist shall perform the following monitoring activities:

a. **Prior to issuance of grading and/or construction permits and within 30 days prior to initiation of site disturbance and/or construction**, the biologist shall conduct a pre-activity (i.e. pre-construction) survey for known or potential kit fox dens and submit a letter to the County reporting the date the survey was conducted, the survey protocol, survey results, and what measures were necessary (and completed), as applicable, to address any kit fox activity within the project limits.

b. The qualified biologist shall conduct weekly site visits during site-disturbance activities (i.e. grading, disking, excavation, stock piling of dirt or gravel, etc.) that proceed longer than 14 days, for the purpose of monitoring compliance with required Mitigation Measures BR-3 through BR11. Site-disturbance activities lasting up to 14 days do not require weekly monitoring by the biologist unless observations of kit fox or their dens are made on-site or the qualified biologist recommends monitoring for some other reason (see BR-2-c3). When weekly monitoring is required, the biologist shall submit weekly monitoring reports to the County.

c. **Prior to or during project activities**, if any observations are made of San Joaquin kit fox, or any known or potential San Joaquin kit fox dens are discovered within the project limits, the qualified biologist shall re-assess the probability of incidental take (e.g. harm or death) to kit fox. At the time the den is discovered, the qualified biologist shall contact the U.S. Fish and Wildlife Service and the Department for guidance on possible additional kit fox protection measures to implement and whether or not a Federal and/or State incidental take permit is needed. If a potential den is encountered during construction, all work shall stop until such time the U. S. Fish and Wildlife Service and Department determine that it is appropriate to resume work.

If incidental take of kit fox during project activities is possible, **before project activities commence**, the applicant must consult with the U.S. Fish and Wildlife Service and the Department (see contact information below). The results of this consultation may require the applicant to obtain a Federal and/or State permit for incidental take during project activities. The applicant should be aware that the presence of kit foxes or known or potential kit fox dens at the project site could result in further delays of project activities.

In addition, the qualified biologist shall implement the following measures:

1. **Within 30 days prior to initiation of site disturbance and/or construction**, fenced exclusion zones shall be established around all known and potential kit fox dens. Exclusion zone fencing shall consist of either large flagged stakes connected by rope or cord, or survey laths or wooden stakes prominently flagged with survey ribbon. Each exclusion zone shall be roughly circular in configuration with a radius of the following distance measured outward from the den or burrow entrances:

- a) Potential kit fox den: 50 feet
- b) Known kit fox den: 100 feet
- c) Kit fox pupping den: 150 feet

2. All foot and vehicle traffic, as well as all construction activities, including storage of supplies and equipment, shall remain outside of exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, and then shall be removed.

3. If kit foxes or known or potential kit fox dens are found on site, daily monitoring during ground disturbing activities shall be required by a qualified biologist.

**BR-3 Prior to issuance of grading and/or construction permits, or approval of any improvement plans related to map recordation,** the applicant shall clearly delineate as a note on the project plans, that: *"Speeds signs of 25 mph maximum (or lower) shall be posted for all construction traffic, to minimize the probability of road mortality of the San Joaquin kit fox."* Speed limit signs shall be installed on the project site **within 30 days prior to initiation of site disturbance and/or construction,**

In addition, **prior to permit issuance and initiation of any ground disturbing activities, or any grading associated with map recordation,** conditions BR-3 through BR-11 of the Developer's Statement/Conditions of Approval shall be clearly delineated on project plans.

**BR-4 During the site disturbance and/or construction phase,** grading and construction activities after dusk shall be prohibited unless coordinated through the County, during which additional kit fox mitigation measures may be required.

**BR-5 Prior to issuance of grading and/or construction permit, and within 30 days prior to initiation of site disturbance and/or construction,** all personnel associated with the project shall attend a worker education training program, conducted by a qualified biologist, to avoid or reduce impacts on sensitive biological resources (i.e. San Joaquin kit fox). At a minimum, as the program relates to the kit fox, the training shall include the kit fox's life history, all mitigation measures specified by the county, as well as any related biological report(s) prepared for the project. The applicant shall notify the County shortly prior to this meeting. A kit fox fact sheet shall also be developed prior to the training program, and distributed at the training program to all contractors, employers and other personnel involved with the construction of the project.

**BR-6 During the site-disturbance and/or construction phase,** to prevent entrapment of the San Joaquin kit fox, all excavation, steep-walled holes or trenches in excess of two feet in depth shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Trenches shall also be inspected for entrapped kit fox each morning prior to onset of field activities and immediately prior to covering with plywood at the end of each working day. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped kit fox. Any kit fox so discovered shall be allowed to escape before field activities resume, or removed from the trench or hole by a qualified biologist and allowed to escape unimpeded.

**BR-7 During the site-disturbance and/or construction phase,** any pipes, culverts, or similar structures with a diameter of four inches or greater, stored overnight at the project site shall be thoroughly inspected for trapped San Joaquin kit foxes before the subject pipe is subsequently buried, capped, or otherwise used or moved in any way. If during the construction phase a kit fox is discovered inside a pipe, that section of pipe will not be moved, or if necessary, be moved only once to remove it from the path of activity, until the kit fox has escaped.

**BR-8 During the site-disturbance and/or construction phase,** all food-related trash items such as wrappers, cans, bottles, and food scraps generated shall be disposed of in closed containers only and regularly removed from the site. Food items may attract San Joaquin kit foxes onto the project site,

consequently exposing such animals to increased risk of injury or mortality. No deliberate feeding of wildlife shall be allowed.

**BR-9 Prior to, during, and after the site-disturbance and/or construction phase,** use of pesticides or herbicides shall be in compliance with all local, state and federal regulations. This is necessary to minimize the probability of primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which San Joaquin kit foxes depend.

**BR-10 During the site-disturbance and/or construction phase,** any contractor or employee that inadvertently kills or injures a San Joaquin kit fox or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the applicant and County. In the event that any observations are made of injured or dead kit fox, the applicant shall immediately notify the U.S. Fish and Wildlife Service and the Department by telephone (see contact information below). In addition, formal notification shall be provided in writing within three working days of the finding of any such animal(s). Notification shall include the date, time, location and circumstances of the incident. Any threatened or endangered species found dead or injured shall be turned over immediately to the Department for care, analysis, or disposition.

**BR-11 Prior to final inspection, or occupancy, whichever comes first,** should any long internal or perimeter fencing be proposed or installed, the applicant shall do the following to provide for kit fox passage:

- a. If a wire strand/pole design is used, the lowest strand shall be no closer to the ground than 12".
- b. If a more solid wire mesh fence is used, 8" x 12" openings near the ground shall be provided every 100 yards.

Upon fence installation, the applicant shall notify the County to verify proper installation. Any fencing constructed after issuance of a final permit shall follow the above guidelines.

### **Contact Information**

California Department of Fish and Game  
Central Coast Region  
P.O. Box 47  
Yountville, CA 94599  
(805) 528-8670  
(805) 772-4318

U.S. Fish and Wildlife Service  
Ventura Field Office  
2493 Portola Road, Suite B  
Ventura, CA 93003  
(805) 644-1766

County of San Luis Obispo  
Department of Planning and Building  
Division of Environmental and Resource Management  
County Government Center, Room 310  
San Luis Obispo, CA 93408  
ATTN: Ms. Julie Eliason  
(805) 781-5029

Date: November 4, 2005

**DEVELOPER'S STATEMENT FOR  
Thacker Minor Use Permit DRC 2004-00236**

The applicant agrees to incorporate the following measures into the project. These measures become a part of the project description and therefore become a part of the record of action upon which the environmental determination is based. All development activity must occur in strict compliance with the following mitigation measures. These measures shall be perpetual and run with the land. These measures are binding on all successors in interest of the subject property.

**Note:** The items contained in the boxes labeled "Monitoring" describe the County procedures to be used to ensure compliance with the mitigation measures.

**Agriculture**

**AG-1 Prior to transfer of this parcel,** the applicant shall disclose to prospective buyers, the consequences of existing and potential intensive agricultural operations on adjacent parcels including, but not limited to: dust, noise, odors and agricultural chemicals and the county's Right to Farm ordinance currently in effect at the time said deed(s) are recorded.

**AG-2** The applicant shall provide an agricultural buffer on the subject property as 175 feet along the southern property line of the subject parcel. No structures used for human habitation shall be constructed in the buffer area. The agricultural buffer shall no longer be in effect if the adjacent agricultural use is discontinued [and the adjacent property is no longer in the Agriculture land use category].

**AG-3 At the time of application for construction permits,** the applicant shall clearly delineate the agricultural buffer on the project plans and locate any proposed habitable structure outside of this buffer.

**AG-4 At the time of application for construction permits,** the applicant shall submit a county approved landscape plan for the proposed residences that buffers the proposed house from the on site and surrounding vineyards. This plan shall include layers of vegetation that includes trees, bushes, and ground cover.

**AG-5 Prior to final of building permit,** the applicant shall implement the county approved landscape plan that buffers the proposed house from the on site and surrounding vineyards. This plan shall include layers of vegetation including trees, bushes, and ground cover around the proposed residence.

**AG-6 Prior to issuance of building permit,** the applicant shall submit building plans that call out dust control measures shall be used along the project site's portion of Magdalena Drive that is adjacent to neighboring vineyards during construction.

**San Joaquin Kit Fox**

The applicant has waive opportunity to complete a San Joaquin kit fox habitat evaluation form and has agreed to the standard 4:1 mitigation ratio for the area. Total compensatory mitigation required for the project is 24,000 square feet or .55 acres, based on 4 times 6,000 square feet impacted. The mitigation options identified in BR-1 through BR-11 apply to the proposed project only; should the project change, the mitigation obligation may also change, and a reevaluation of the mitigation measures would be required.

**BR-1 Prior to issuance of grading and/or construction permits,** the applicant shall submit evidence to the County of San Luis Obispo, Department of Planning and Building, Environmental and Resource Management Division (County) (see contact information below) that states that one or a combination of the following four San Joaquin kit fox mitigation measures has been implemented:

a. Provide for the protection in perpetuity, through acquisition of fee or a conservation easement of .55 acres of suitable habitat in the kit fox corridor area (e.g. within the San Luis Obispo County kit fox habitat area, northwest of Highway 58), either on-site or off-site, and provide for a non-wasting endowment to provide for management and monitoring of the property in perpetuity. Lands to be conserved shall be subject to the review and approval of the California Department of Fish and Game (Department) and the County.

This mitigation alternative (a.), requires that all aspects of this program must be in place before County permit issuance or initiation of any ground disturbing activities.

b. Deposit funds into an approved in-lieu fee program, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area within San Luis Obispo County, and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

Mitigation alternative (b) above, can be completed by providing funds to The Nature Conservancy (TNC) pursuant to the Voluntary Fee-Based Compensatory Mitigation Program (Program). The Program was established in agreement between the Department and TNC to preserve San Joaquin kit fox habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with the California Environmental Quality Act (CEQA). The fee, payable to "The Nature Conservancy," would total **\$1,375.00**. This fee must be paid after the Department provides written notification identifying your mitigation options but prior to County permit issuance and initiation of any ground disturbing activities.

c. Purchase .55 credits in a Department-approved conservation bank, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

At this time, there is no approved conservation bank that is operational in San Luis Obispo County. A conservation bank is expected to be operational in the near future. Purchase of credits must be completed prior to County permit issuance and initiation of any ground disturbing activities.

d. If none of the above measures (a, b, or c) are available, the applicant may enter into a Mitigation Agreement with the Department, including depositing of funds into an escrow account (or other means of securing funds acceptable to the Department) which would ensure the protection in perpetuity of .55 acres of suitable habitat within the kit fox corridor area and provide for a non-wasting endowment for management and monitoring in perpetuity. The Department can provide a draft agreement to review; a signed Mitigation Agreement shall be submitted to the County prior to County permit issuance and initiation of any ground disturbing activities.

<p><b>Monitoring:</b> Required prior to issuance of a grading and/or construction permit. Compliance will be verified by the County Division of Environmental and Resource Management.</p>
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**BR-2 Prior to issuance of grading and/or construction permits,** the applicant shall provide evidence that they have retained a qualified biologist acceptable to the County. The retained biologist shall perform the following monitoring activities:

- a. **Prior to issuance of grading and/or construction permits and within 30 days prior to initiation of site disturbance and/or construction**, the biologist shall conduct a pre-activity (i.e. pre-construction) survey for known or potential kit fox dens and submit a letter to the County reporting the date the survey was conducted, the survey protocol, survey results, and what measures were necessary (and completed), as applicable, to address any kit fox activity within the project limits.
- b. The qualified biologist shall conduct weekly site visits during site-disturbance activities (i.e. grading, disking, excavation, stock piling of dirt or gravel, etc.) that proceed longer than 14 days, for the purpose of monitoring compliance with required Mitigation Measures BR-3 through BR11. Site- disturbance activities lasting up to 14 days do not require weekly monitoring by the biologist unless observations of kit fox or their dens are made on-site or the qualified biologist recommends monitoring for some other reason (see BR-2-c3). When weekly monitoring is required, the biologist shall submit weekly monitoring reports to the County.
- b. **Prior to or during project activities**, if any observations are made of San Joaquin Kit fox, or any known or potential San Joaquin kit fox dens are discovered within the project limits, the qualified biologist shall re-assess the probability of incidental take (e.g. harm or death) to kit fox. At the time a den is discovered, the qualified biologist shall contact the U.S. Fish and Wildlife Service and the Department (see contact information below) for guidance on possible additional kit fox protection measures to implement and whether or not a Federal and/or State incidental take permit is needed. If a potential den is encountered during construction, work shall stop until such time the U.S. Fish and Wildlife Service/Department determines it is appropriate to resume work.

If incidental take of kit fox during project activities is possible, **before project activities commence**, the applicant must consult with the U.S. Fish and Wildlife Service and the Department. The results of this consultation may require the applicant to obtain a Federal and/or State permit for incidental take during project activities. The applicant should be aware that the presence of kit foxes or known or potential kit fox dens at the project site could result in further delays of project activities.

- d. In addition, the qualified biologist shall implement the following measures:
  1. **Within 30 days prior to initiation of site disturbance and/or construction**, fenced exclusion zones shall be established around all known and potential kit fox dens. Exclusion zone fencing shall consist of either large flagged stakes connected by rope or cord, or survey laths or wooden stakes prominently flagged with survey ribbon. Each exclusion zone shall be roughly circular in configuration with a radius of the following distance measured outward from the den or burrow entrances:
    - a) Potential kit fox den: 50 feet
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  2. All foot and vehicle traffic, as well as all construction activities, including storage of supplies and equipment, shall remain outside of exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, and then shall be removed.

3. If kit foxes or known or potential kit fox dens are found on site, daily monitoring during ground disturbing activities shall be required by a qualified biologist.

**Monitoring:** Required prior to issuance of a grading and/or construction permit. Compliance will be verified by the County Division of Environmental and Resource Management.

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In addition, **prior to permit issuance and initiation of any ground disturbing activities,** conditions BR-3 through BR-11 of the Developer's Statement/Conditions of Approval shall be clearly delineated on project plans.

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**BR-6 During the site-disturbance and/or construction phase,** to prevent entrapment of the San Joaquin kit fox, all excavation, steep-walled holes or trenches in excess of two feet in depth shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Trenches shall also be inspected for entrapped kit fox each morning prior to onset of field activities and immediately prior to covering with plywood at the end of each working day. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped kit fox. Any kit fox so discovered shall be allowed to escape before field activities resume, or removed from the trench or hole by a qualified biologist and allowed to escape unimpeded.

**BR-7 During the site-disturbance and/or construction phase,** any pipes, culverts, or similar structures with a diameter of four inches or greater, stored overnight at the project site shall be thoroughly inspected for trapped San Joaquin kit foxes before the subject pipe is subsequently buried, capped, or otherwise used or moved in any way. If during the construction phase a kit fox is discovered inside a pipe, that section of pipe will not be moved, or if necessary, be moved only once to remove it from the path of activity, until the kit fox has escaped.

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**BR-9 Prior to, during and after the site-disturbance and/or construction phase,** use of pesticides or herbicides shall be in compliance with all local, State and Federal regulations. This is necessary to minimize the probability of primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which San Joaquin kit foxes depend.

**BR-10 During the site-disturbance and/or construction phase,** any contractor or employee that inadvertently kills or injures a San Joaquin kit fox or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the applicant and County. In the event that any observations are made of injured or dead kit fox, the applicant shall immediately notify the U.S. Fish and Wildlife Service and Department by telephone (see contact information below). In addition, formal notification shall be provided in writing within three working days of the finding of any such animal(s). Notification shall include the date, time, location and circumstances of the incident. Any threatened or endangered species found dead or injured shall be turned over immediately to Department for care, analysis, or disposition.

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- a. If a wire strand/pole design is used, the lowest strand shall be no closer to the ground than 12".
- b. If a more solid wire mesh fence is used, 8" x 12" openings near the ground shall be provided every 100 yards.

Upon fence installation, the applicant shall notify the County to verify proper installation. Any fencing constructed after issuance of a final permit shall follow the above guidelines.

**Monitoring (San Joaquin Kit Fox Measures BR-3 – BR-11):** Compliance will be verified by the County Division of Environmental and Resource Management in consultation with the California Department of Fish and Game. As applicable, each of these measures shall be included on construction plans.

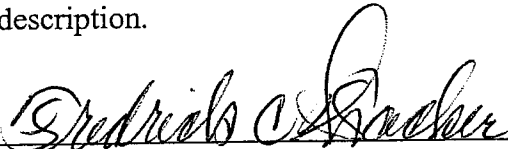
#### **Contact Information**

California Department of Fish and Game  
Central Coast Region  
P.O. Box 47  
Yountville, CA 94599  
(805) 528-8670  
(805) 772-4318

U.S. Fish and Wildlife Service  
Ventura Field Office  
2493 Portola Road, Suite B  
Ventura, CA 93003  
(805) 644-1766

County of San Luis Obispo  
Department of Planning and Building  
Division of Environmental and Resource Management  
County Government Center, Room 310  
San Luis Obispo, CA 93408  
ATTN: Ms. Julie Eliason

The applicant understands that any changes made to the project description subsequent to this environmental determination must be reviewed by the Environmental Coordinator and may require a new environmental determination for the project. By signing this agreement, the owner(s) agrees to and accepts the incorporation of the above measures into the proposed project description.

  
Signature of Owner(s)

11/09/05  
Date

Fredrick C. Thacker  
Name (Print)

